

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2008

WEDNESDAY, MAY 2, 2007

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 5 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Richard J. Durbin (chairman) presiding.
Present: Senator Durbin.

DISTRICT OF COLUMBIA

COURTS

STATEMENT OF ERIC T. WASHINGTON, CHIEF JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS

STATEMENT OF SENATOR RICHARD J. DURBIN

Senator DURBIN. Good afternoon. The hearing will come to order and my apologies for the delayed start.

Coincidentally this hearing was scheduled for the very moment that I was calling an amendment on the floor. The bad news is you had to wait patiently for over an hour and the good news is the amendment passed.

So, I'm happy to be with you and welcome you to the session before the Financial Services and General Government Appropriations Subcommittee.

Our focus today is on the budget request for four federally funded agencies which deliver vital services within the District of Columbia. I welcome my Senate colleagues who may join me now that the rollcall has been completed.

Appearing before the subcommittee this afternoon is an extraordinary panel of key officials, who devote their careers to fairly administering justice, protecting public safety, and improving the livelihood and potential for the citizens of our Nation's capital.

As I looked over their résumés, it's significant that collectively these leaders have delivered a century of distinguished public service and from my vantage point, appear to show no signs of fatigue or waning commitment. So, I thank you for that.

I welcome the Honorable Eric T. Washington, Chief Judge of the D.C. Court of Appeals; the Honorable Rufus G. King III, Chief Judge of the District of Columbia Superior Court; Paul Quander, Jr., Director of the Court Services and Offender Supervision Agen-

cy (CSOSA); Avis Buchanan, Director of the Public Defender Service (PDS) of the District of Columbia; and Deborah Gist, State Education Officer, who administers the Resident Tuition Assistant Grant Program for the District of Columbia government. Thank you for joining us.

I've had the privilege and pleasure of working on a host of important and successful legislative initiatives for the benefit of the District as part of my Senate responsibilities—having worn the hats of both authorizer and appropriator over the years. Today provides an opportunity to continue that work.

The combined funding request for the operations of the agencies appearing before the subcommittee today constitute \$515.5 million—86 percent of the President's total request of \$597.6 million in Federal payments to fund a dozen diverse programs in the District of Columbia.

Federal appropriations provide the sole financial resources for, not simply a contribution to, the operations of these four agencies. Three of the entities are wholly independent of any local control or oversight as a result of the Revitalization Act of 1997, which relieved the District of certain state level responsibilities and restructured several criminal justice functions.

So, it's prudent to assess how effectively and efficiently these particular agencies are currently utilizing and managing Federal resources as we look forward to deliberating the needs for the ensuing year.

For the District of Columbia Courts, the President's budget recommends a total of \$213.9 million, a decrease of \$2.9 million from last year's appropriation. The President's recommendation for court operations is \$24.5 million—18 percent increase above the last fiscal year enacted level of \$136.8 million. The President's proposed level of \$52.5 million for capital improvements is \$27.4 million below fiscal year 2007.

For CSOSA, the President requests \$190.3 million. This is \$10.7 million, or 6 percent, above the fiscal year 2007 enacted level of \$179.6 million.

Under the full year continuing resolution, Congress approved an additional \$8.9 million to forestall critical setbacks CSOSA faced if forced to operate at the fiscal year 2006 level. For the Public Defender Service, the President seeks \$32.71 million to be provided as a direct appropriation. This is 5 percent above the fiscal year 2007 level.

For the District of Columbia Tuition Assistance Grant Program, the President seeks \$35.1 million, an increase of \$2.2 million, or 7 percent, above the fiscal year 2007 enacted level.

I look forward to discussing these budget proposals in greater detail. At this point, we will take the testimony of those witnesses who appear before us.

In the interest of providing ample opportunity to discuss your proposals with questions and answers, I hope you can limit your oral presentations to around 5 minutes. Your entire formal statement will be submitted for the record. Judge Washington, we will begin with you. Thank you for being here.

Judge WASHINGTON. Thank you, Mr. Chairman. Good afternoon.

Senator DURBIN. There's a button on your microphone. There you go.

Judge WASHINGTON. I hope that I've done this correctly.

Again, good afternoon, Mr. Chairman, thank you for this opportunity to discuss the D.C. Courts' fiscal year 2008 budget request.

As you noted, my name is Eric T. Washington and I'm here in my capacity as the Chief Judge of the District of Columbia Court of Appeals and Chair of the Joint Committee on Judicial Administration in the District of Columbia, the policy making body for the District of Columbia Courts.

With me this afternoon are Chief Judge Rufus King III of the D.C. Superior Court; Ms. Anne Wicks, our Executive Officer; and several other key members of senior staff.

INTRODUCTION

As you know, the District of Columbia has a two-tier court system comprised of the District of Columbia Court of Appeals, our court of last resort, and the Superior Court of the District of Columbia, a trial court of general jurisdiction. Administrative support functions for our courts are provided by an entity known as the court system.

The mission of the District of Columbia Courts is to protect rights and liberties, uphold and interpret the law, and resolve disputes peacefully, fairly, and efficiently in the District of Columbia.

Our successes in fulfilling this mission are attributable, in large part, to the consistent support we have received from Congress and the President. With your continued support, we are confident that we will be able to continue to achieve many of the strategic goals we have set for ourselves and for our community.

BUDGET PRIORITIES

The District of Columbia Courts serve approximately 10,000 courthouse visitors each day, process more than 150,000 cases each year, and employ a staff of 1,200, who directly serve the public, process cases and provide administrative support. The number of filings and case dispositions in both courts rank among the highest in the Nation on a per capita basis. It is for these reasons that our two priority items in this fiscal year's budget concern our workforce and our space needs. More specifically, the courts' fiscal year 2008 budget priority requests are for full funding for all currently authorized positions and funding to complete the old courthouse restoration.

Over the past several years increasing costs for healthcare, retirement benefits, and cost-of-living adjustments have outpaced appropriations, resulting in a significant funding shortfall in the courts' personal services budget. A sufficient workforce is essential for the D.C. Courts to meet our statutory obligations, fulfill our mission, and ensure that the public receives high quality justice and services from the judicial branch of Government. Because personal services costs make up 75 percent of the courts' budget, the shortfall has forced us to severely limit hiring.

Today the courts have a 13-percent nonjudicial vacancy rate, a vacancy rate that is beginning to detrimentally effect court oper-

ations. The requested \$8.4 million will fully fund the positions currently authorized for the courts.

The courts continue to implement the facilities master plan, and this concerns our second priority issue, that was developed in 2002 and revised after passage of the Family Court Act. The plan covers the five buildings and 1.1 million gross square feet of space that comprise our campus in Judiciary Square; accordingly, resources for capital improvements remain critical.

As you know, the D.C. Courts are renovating the old courthouse for relocation of the D.C. Court of Appeals. The old courthouse is an historic landmark and the centerpiece of Judiciary Square. A few years ago, that old courthouse was vacant and uninhabitable by modern health and safety standards. At that time, the D.C. Courts were facing space shortages in the 1970s era Moultrie Courthouse. The facilities master plan defined how the courts could best create space to operate and serve the public efficiently. It makes clear that the restoration of the old courthouse, an historic landmark in need of preservation, is also the key to meeting the space needs of the D.C. Courts.

We are very pleased that Congress and the President have strongly supported this restoration project. From fiscal year 2005 to 2007, \$99 million was appropriated for the construction contract. Construction began just over 1 year ago, in March 2006, and is scheduled to be completed in December 2008. We have provided your staff with pictures that show the progress that has been made to date.

The final phase of the funding requested in fiscal year 2008 is \$30 million for costs not included in the construction contract, such as removal of hazardous materials, construction management, and contingency and management reserves.

To maximize the efficient use of the facility once it opens, the court's budget request also includes \$2.6 million for furniture, equipment, and technology necessary to outfit the restored building.

THE PRESIDENT'S RECOMMENDATION

We're very pleased that the President's D.C. Court's funding recommendation for fiscal year 2008 supports these two priority budget items. The President's recommendation also finances another key capital project, electrical repairs in the Moultrie Courthouse and provides funds for emergency facility repairs. The Moultrie Courthouse is approximately 30 years old, and was not built to handle the expanded electrical load resulting from the use of computers and other modern office equipment. According to our energy consultant, the current electrical system in the Moultrie Courthouse is overburdened and poses a serious threat to the safety of workers and building occupants, and must be updated as soon as possible.

CONCLUSION

We have long enjoyed a reputation for excellence in the District of Columbia Courts. Adequate funding for our budget priorities is critical to our success. We appreciate the support this subcommittee has given us in the past and the present support for our

budget initiatives. We look forward to working with you throughout this process.

PREPARED STATEMENT

If there are any questions, we'd be happy to answer them at an appropriate time. Thank you very much, Mr. Chairman.

Senator DURBIN. Thank you, Judge Washington.

[The statement follows:]

PREPARED STATEMENT OF CHIEF JUDGE ERIC T. WASHINGTON

Mister Chairman, Senator Brownback, Subcommittee members, thank you for this opportunity to discuss the fiscal year 2008 budget request of the District of Columbia Courts. I am Eric T. Washington, and I am the Chair of the Joint Committee on Judicial Administration in the District of Columbia, the policy-making body for the District of Columbia Courts. I also serve as Chief Judge of the District of Columbia Court of Appeals.

As you may know, this jurisdiction has a two-tier court system comprised of the D.C. Court of Appeals, our court of last resort, and the Superior Court of the District of Columbia, a trial court of general jurisdiction. Administrative support functions for our Courts are provided by what is known as the Court System.

INTRODUCTION

We live in a changing environment, facing new challenges to our nation, our Nation's Capital, and our court system. Whatever challenges we face, the fair and effective administration of justice remains crucial to our way of life. The District of Columbia Courts are committed to responding to the changing needs of our society and meeting these new challenges. We have been steadfast in our mission, which is to protect rights and liberties, uphold and interpret the law, and resolve disputes peacefully, fairly and efficiently in the Nation's Capital. Through our Strategic Plan, the D.C. Courts strive to enhance the administration of justice; broaden access to justice and service to the public; promote competence, professionalism, and civility; improve court facilities and technology; and build trust and confidence in our courts. We appreciate the support of Congress and the President, which makes possible the achievement of these goals for our community.

To support our mission and goals in fiscal year 2008, the Courts budget submission requested \$347,774,000 for court operations and capital improvements. Of this amount, \$13,389,000 is requested for the Court of Appeals; \$100,543,000 is requested for the Superior Court; \$54,052,000 is requested for the Court System; and \$179,790,000 is requested for capital improvements for courthouse facilities. In addition, the Courts requested \$52,475,000 for the Defender Services account.

The D.C. Courts are committed to fiscal prudence and sound financial management. The fiscal year 2008 budget request represents an operating budget increase of \$31.2 million and 20 full-time equivalent (FTE) positions over the fiscal year 2007 appropriation. The two highest priorities in the Courts' operating budget request are (1) \$8,432,000 to fully fund all authorized positions, a special request in the budget submission and (2) \$2,589,000 to furnish and equip the restored Old Courthouse. These two requests account for 35 percent of the operating budget increase.

As the Courts continue to implement the Facilities Master Plan for our five buildings and 1.1 million gross square feet of space, resources for capital improvements remain critical priorities. The fiscal year 2008 capital budget reflects an increase of \$99,868,000 over the fiscal year 2007 level to complete the restoration and occupancy of the Old Courthouse, support critical space and technology needs, and to maintain the Courts' infrastructure. The Old Courthouse restoration remains the most pivotal item in the capital budget, with a request for \$30 million to cover project costs not included in the general construction contract.

OPERATING BUDGET PRIORITIES

Special Request for Personal Services Funding

Over the past several years, increasing personal services costs for health benefits and cost of living adjustments have outpaced appropriations, resulting in a significant funding shortfall in the Courts' personal services budget. Like all organizations that serve the public, the greatest asset and resource of the D.C. Courts is our people. A sufficient workforce is essential for the D.C. Courts to meet statutory mandates, fulfill our mission, and ensure that the public receives high quality justice

and services from the judiciary. As personal services costs make up 75 percent of the Courts' budget, the shortfall has necessitated limited hiring. Today, the Courts have a 13 percent non-judicial vacancy rate, to the detriment of court operations. Staffing shortages have a profound negative impact on the fair and effective resolution of disputes and public safety. The Courts' budget request includes \$8,432,000 to fully fund the positions currently authorized for the Courts to fulfill our mission. Unless this most critical issue facing the D.C. Courts is addressed, the Courts will be unable to fill mission-critical positions, and the quality of justice in the District of Columbia will be compromised.

Furniture and Equipment for the Old Courthouse

As discussed in detail below, the D.C. Courts are renovating the historic Old Courthouse for use by the Court of Appeals. The building not only will be restored in keeping with its historic and architectural significance, but it will also be returned to its original use as a courthouse to serve the people of the District of Columbia. Construction is scheduled to be complete at the end of 2008. To maximize the efficient use of space and technology, the Courts' budget request includes \$2,589,000 for the furniture and equipment necessary to outfit the facility.

CAPITAL BUDGET PRIORITY: RESTORATION OF THE OLD COURTHOUSE

The Old Courthouse is an historic landmark that is the centerpiece of Judiciary Square. The cornerstone was laid with great fanfare in 1820, and its neoclassical design embodies the democratic ideals of Ancient Greece. Originally constructed as a courthouse and City Hall, it has served as a courthouse for most of its 187 years. A few years ago, it was uninhabitable, with worn out mechanical systems, hazardous materials, and numerous other violations of modern health and safety standards. Yet, its proud history and aesthetic beauty remained. At the same time, the D.C. Courts were facing space shortages in the 1970's Moultrie Courthouse, and new mandates for the Family Court increased our space requirements. A Facilities Master Plan was developed to determine how to provide enough space to operate and serve the public efficiently. It was clear that restoration of the Old Courthouse, badly needed for historic preservation, was also the key to meeting the space requirements of the D.C. Courts.

We are very pleased that Congress and the President have strongly supported this restoration. As you may know, Congress elected to finance the restoration in phases. From fiscal year 2005 through fiscal year 2007, Congress has provided \$99 million for the construction contract. The final phase of the funding is \$30 million for costs not included in the construction contract, such as removal of hazardous materials; wiring for security, technology and telecom equipment; construction management; and contingency and management reserves.

THE PRESIDENT'S RECOMMENDATION

I am very pleased that the President's recommendation for fiscal year 2008 supports our most important priority items: personal services funding and restoration of the Old Courthouse. In addition, the President's recommendation finances two key capital items: electrical repairs in the Moultrie Courthouse and emergency facility repairs. The Moultrie Courthouse is approximately 30 years old and, due to its age and the expanded electrical load from computers and other modern office equipment, the electrical system poses a serious threat to the health and safety of workers and building occupants.

The Courts' budget request includes several initiatives needed to keep our capital projects on the schedule established by our Facilities Master Plan that are not supported this year in the President's recommendation. These projects, such as the renovation of the Moultrie Courthouse and Building C (the old juvenile court), will need to be addressed in future years. As we have learned, any delay in construction projects significantly increases their cost.

RECENT ACHIEVEMENTS

As the Courts approach the tenth year of direct federal funding in fiscal year 2008, we look forward to building on past reforms that enhanced our services to the community and demonstrated our commitment to fiscal responsibility. We are proud of the Courts' recent achievements that all enhance public trust and confidence and that include the following:

- construction to restore the Old Courthouse, a building of historic and architectural significance that is critical to meeting the long term space needs of the Courts and to urban renewal in the District, following approval by the National

- Capital Planning Commission, Commission of Fine Arts, and Historic Preservation Board;
- development and approval by the National Capital Planning Commission of a Master Plan for Judiciary Square, an urban design and renewal plan to revitalize this historic area of the District of Columbia that dates to the original L'Enfant Plan for the Nation's Capital;
- initiation of our second five-year strategic plan, Committed to Justice in the Nation's Capital, to ensure that the Courts' goals, functions, and resources are strategically aligned to our budget and our operations for maximum efficiency and effectiveness through 2012;
- adoption of 13 courtwide performance measures which will enhance the Courts' ability to monitor and assess case management activities and, ultimately, to inform the public about our performance;
- comprehensive space renovation, including mechanical, electrical and security upgrades; new space for the Landlord Tenant and Small Claims courts and juvenile probation (the Social Services Division of the Family Court) in Building B; and renovated space in Building A for the Crime Victims Compensation Program and the Multi-Door Division, as the Courts' Facilities Master Plan is implemented.
- Full implementation of the Family Court Act, including a newly constructed, family friendly facility on the JM level of the Moultrie Courthouse in fiscal year 2004, which houses the new Central Intake Center to provide one-stop public service; implementation of the one family-one judge principle; development of attorney practice standards and creation of attorney panels for neglect and juvenile cases; establishment of a Family Treatment Court for mothers with substance abuse issues and their children; creation of a Self-Help Center for unrepresented litigants; opening the Mayor's Services Liaison Center in the courthouse to coordinate the provision of needed social services; transferring all required children's cases to Family Court judges; and installation of a family sculpture at the reconfigured entrance to the Family Court;
- establishment of the District of Columbia Access to Justice Commission, by the Court of Appeals, to enhance access to civil justice for all persons without regard to economic status;
- inauguration of Court of Appeals Education Outreach Initiative, which includes oral arguments in the community at law schools located in the District of Columbia followed by opportunities for students to ask the judges questions about appellate advocacy;
- initiation by the Court of Appeals of web-streaming oral arguments, giving the public real-time access, on the Internet, to oral arguments before the Court;
- implementation by the Court of Appeals of a comprehensive revision of its rules of practice to reduce expenses associated with record preparation, the first such revision since the mid-1980's;
- development and implementation of a appellate mediation program to assist parties in reaching satisfactory case outcomes more expeditiously, thereby saving the public and the Court of Appeals time and money;
- installation and conversion to a new case management system in the Superior Court, CourtView, through the Integrated Justice Information System (IJIS) project which consolidates 19 distinct automated databases into one comprehensive system, thereby ensuring complete information on all cases pertaining to one individual or family to enhance case processing and judicial decision-making;
- revision of the Criminal Justice Act Plan to improve quality legal representation for indigent criminal defendants in the Court of Appeals;
- continued enhancements to the Courts' website, designed to increase public information and access, including implementation of on-line juror services and recognition by Justice Served as one of the top ten court websites worldwide;
- implementation of two community courts, the D.C. and Traffic Community Court and the East of the River Community Court, to enhance responsiveness to the community and to address quality of life crimes through a blend of therapeutic justice and restorative justice;
- creation of a Landlord Tenant Resource Center and a Small Claims Resource Center to provide free legal information to unrepresented parties and referrals to legal and social service providers;
- promulgation of draft probate attorney practice standards and creation of the Probate Review Task Force, to enhance service to incapacitated adults and other parties in probate cases;
- disposition of 1,443 cases and receipt of 1,541 filings in the Court of Appeals, and disposition of 136,413 and receipt of 128,468 filings in the Superior Court

(fiscal year 2005 statistics), continuing operation as one of the busiest courthouses in the nation (Superior Court judges hear more cases, on average, than judges in all but eight states, and case filings per capita in both the trial and appellate courts rank at or near the highest in most categories, as examined by the National Center for State Courts).

D.C. COURTS INFRASTRUCTURE

The Courts' capital budget has been a primary focus of our budget request for several years. The District of Columbia Courts serve approximately 10,000 courthouse visitors each day, process more than 150,000 cases each year, and employ a staff of 1,200 who directly serve the public, process the cases, and provide administrative support. As noted above, the District of Columbia Courts are among the busiest and most productive court systems in the United States.

The Courts' capital needs are significant because we are responsible for 1.1 million gross square feet of space in Judiciary Square and five buildings, including the Moultrie Courthouse, one of the busiest and most heavily visited public buildings in the District of Columbia. The ages of the Courts' buildings ranges from 30 years to 200 years. Our funding requirements include projects critical to maintaining, preserving, and building safe and functional courthouse facilities essential to meeting the heavy demands of the administration of justice in our Nation's Capital. To effectively meet these demands, the Courts' facilities must be both functional and emblematic of their public significance and character.

Facilities that provide adequate and efficiently designed space are essential to enhance the administration of justice, simplify public interaction with courts, and improve access to justice for all. In contrast, facilities with inadequate space for employees to perform their work, with evidence of long-deferred maintenance and repair, and with inefficient layouts can detract from the public perception of the dignity and importance of a court and impair its ability to function in the community. This negative perception impacts public trust and confidence in courts, a nationally recognized critical requirement for the effective administration of justice. The National Center for State Courts succinctly states the relationship between courts and their facilities:

"Court facilities should not only be efficient and comfortable, but should also reflect the independence, dignity, and importance of our judicial system . . . It is difficult for our citizens to have respect for the courts and the law, and for those who work in the court, if the community houses the court in facilities that detract from its stature."¹

Deferred maintenance forced by limited financial resources over many years left these buildings in a state that may be perceived to detract from the stature of the Courts. We are beginning to see improvements, thanks to your support in recent years, but much work remains to be done. The Courts' fiscal year 2008 budget request seeks resources to meet health and safety building codes and to provide secure facilities for the public. For example, adequate ventilation must be provided in the courthouse buildings. Electrical systems must be upgraded, both to meet modern office needs and to limit risk of fire. Safety hazards posed by disintegrating flooring materials must be remedied. The halls of justice in the District of Columbia must be well maintained, efficient, and adequately sized to inspire the confidence of the members of the public who enter our buildings. The Courts' facilities plans will, over a ten-year period, meet the well-documented space needs of the Courts and return the buildings to a condition that inspires trust in the justice system of the Nation's Capital.

The Courts' facilities plans will also enhance the efficient administration of justice and improve public access to justice in this jurisdiction by co-locating related functions. The restoration of the Old Courthouse for the Court of Appeals, for example, will provide the public with a single location for services that are currently found on different floors and in different buildings from most Court of Appeals offices. Offices related to the Family Court, such as juvenile probation, will be consolidated in the Moultrie Courthouse, which will be made possible only as we renovate space in other buildings, converting usage to public court proceedings and relocating operations from Moultrie. More efficient location of these offices will not only facilitate public access to the Courts, but will also enhance the efficiency of operations.

¹Don Hardenbergh with Robert Tobin, Sr. and Chang-Ming Yeh, *The Courthouse: A Planning and Design Guide for Court Facilities*, National Center for State Courts, 1991, p. xiii.

In addition, basic mechanical systems impact the administration of justice. A broken air conditioning or heating system, for example, can force suspension of trials when courtroom temperatures reach unbearable levels.

Facilities in the Courts' Strategic Plan

The capital projects included in this request are an integral part of the Courts' Strategic Plan, completed in fiscal 2003. I am pleased to have co-chaired the Strategic Planning Leadership Council, which, with broad input from the community, developed the Strategic Plan of the D.C. Courts, entitled *Committed to Justice in the Nation's Capital*. The Strategic Plan articulates the mission, vision, and values of the Courts in light of current initiatives, recent trends, and future challenges. It addresses issues such as implementation of a Family Court, increasing cultural diversity, economic disparity, complex social problems of court-involved individuals, the increasing presence of litigants without legal representation, rapidly evolving technology, the competitive funding environment, enhanced public accountability, competition for skilled personnel, and increased security risks.

Facility improvements were identified as a high priority among all constituency groups surveyed by the Courts as the Strategic Plan was developed. Employees, judges, and stakeholders were asked to identify the most important issues the Courts must address in the coming years, and each ranked "enhance court facilities" among the highest priorities. In addition, approximately half of judges and 65 percent of employees reported inadequate light, heat, air conditioning, and ventilation in their workspaces.

"Improving Court Facilities and Technology" is the Plan's Strategic Issue 4. The Strategic Plan states—

"The effective administration of justice requires an appropriate physical and technical environment. Court personnel and the public deserve facilities that are safe, comfortable, secure, and functional, and that meet the needs of those who use them. Technology must support the achievement of the Courts' mission."

Historic Judiciary Square

The D.C. Courts are primarily located in Judiciary Square, with some satellite offices and field units in other locations. The historical and architectural significance of Judiciary Square lend dignity to the important business conducted by the Courts and, at the same time, complicate efforts to upgrade or alter the structures within the square. Great care has been exercised in designing the restoration of the Old Courthouse, the centerpiece of the square, to preserve the character not only of the building, but also of Judiciary Square. As one of the original and remaining historic green spaces identified in Pierre L'Enfant's plan for the capital of a new nation, Judiciary Square is of keen interest to the Nation's Capital.

Buildings A, B, and C, dating from the 1930's, are situated symmetrically along the view corridor comprised of the National Building Museum, the Old Courthouse, and John Marshall Park and form part of the historic, formal composition of Judiciary Square. The Moultrie Courthouse, although not historic, is also located along the view corridor and reinforces the symmetry of Judiciary Square through its similar form and material to the municipal building located across the John Marshall Plaza.

Judiciary Square Master Plan

The National Capital Planning Commission (NCPC) required that the D.C. Courts develop a Judiciary Square Master Plan—essentially an urban design plan—before any construction by the Courts and others could be commenced in the area. The D.C. Courts worked with all stakeholders on the Plan, including the United States Court of Appeals for the Armed Forces, the National Law Enforcement Officers Memorial Fund (Memorial Fund), the Newseum, and the Metropolitan Police Department. The Judiciary Square Master Plan was approved in August 2005.

The Judiciary Square Master Plan resolves important technical issues related to access, service, circulation, and security within a rapidly changing and publicly oriented area of the District, while re-establishing the importance of this historic setting in the "City of Washington." It provides a comprehensive framework for capital construction for all local entities, and it lays the groundwork for the regulatory approval process with the National Capital Planning Commission, the U.S. Commission of Fine Arts, the District of Columbia Office of Historic Preservation, the District of Columbia Office of Planning, and the District of Columbia Department of Transportation, among others. The Judiciary Square Master Plan will ensure the preservation of one of the last green spaces in the District of Columbia awaiting revitalization, incorporating areas where the public can gather and relax, and creating a campus-like environment where citizens can feel safe and secure.

Master Plan for D.C. Courts Facilities

The Courts worked with the General Services Administration (GSA) on a number of capital projects since fiscal year 1999, when the Courts assumed capital project responsibility from the District's Department of Public Works. In 1999, GSA produced a study for the renovation of the Old Courthouse to house the D.C. Court of Appeals. In 2001, GSA prepared Building Evaluation Reports that assessed the condition of the D.C. Courts' facilities. These projects culminated in the development of the first Master Plan for D.C. Courts Facilities, which delineates the Courts' space requirements and provides a blueprint for optimal space utilization, both in the near and long term.

The Master Plan for D.C. Courts Facilities (Facilities Master Plan), completed in December 2002, incorporates significant research, analysis, and planning by experts in architecture, urban design and planning. During this study, GSA analyzed the Courts' current and future space requirements, particularly in light of the significantly increased space needs of the Family Court. The Facilities Master Plan examined such issues as alignment of related court components to meet evolving operational needs and enhance efficiency; the impact of the D.C. Family Court Act of 2001 (Public Law Number 107–114); accommodation of the Courts' space requirements through 2012; and plans to upgrade facilities, including, for example, security, telecommunications, and mechanical systems. The Plan identified a space shortfall for the Courts of 48,000 square feet of space in 2002, with a shortfall of 134,000 square feet projected in the next decade.

The experts proposed to meet the Courts' space needs through three mechanisms: (1) renovation of the Old Courthouse for the District of Columbia Court of Appeals, which will free critically needed space in the Moultrie Courthouse for trial court operations; (2) construction of an addition to the Moultrie Courthouse, to include a separately accessible Family Court facility; and (3) the reoccupation and renovation of Building C, adjacent to the Old Courthouse. In addition, the Plan determined that all court facilities must be modernized and upgraded to meet health and safety standards and to function with greater efficiency.

Overview of the D.C. Courts' Facilities

The Courts currently maintain four buildings in Judiciary Square: the Old Courthouse at 430 E Street, the Moultrie Courthouse at 500 Indiana Avenue, N.W., and Buildings A and B, which are located between 4th and 5th Streets and E and F Streets, N.W. In addition, the District government has partially vacated Building C, which will soon return to the D.C. Courts' inventory.

Old Courthouse

The Old Courthouse, built from 1821 to 1881, is one of the oldest public buildings in the District of Columbia. Inside the Old Courthouse, Daniel Webster and Francis Scott Key practiced law and John Surratt was tried for his part in the assassination of President Abraham Lincoln. The architectural and historical significance of the Old Courthouse led to its listing on the National Register of Historic Places and its designation as an official project of Save America's Treasures. The unique character of the building, together with its compact size, makes it ideal for occupancy by the highest court of the District of Columbia. At the same time, the structure requires extensive work to meet health and safety building codes and to readapt it for modern use as a courthouse. The restoration of the Old Courthouse for use as a functioning court building will not only provide much needed space for the Courts, but it will also preserve a historic treasure of our nation and impart new life to one of the most significant historic buildings and precincts in Washington, D.C. It will meet the needs of the Courts and benefit the community through an approach that strengthens a public institution, restores a historic landmark, and stimulates neighborhood economic activity.

Moultrie Courthouse

The Moultrie Courthouse is uniquely designed to meet the needs of a busy trial court. It has three separate and secure circulation systems—for judges, the public, and the large number of prisoners brought to the courthouse each day. Built in 1978 for 44 trial judges, today it is strained beyond capacity to accommodate 59 trial judges and 24 magistrate judges in the trial court and 9 appellate judges, as well as senior judges and more than 1,000 support staff members for the two courts. Currently, the Moultrie Courthouse provides space for most Court of Appeals, Superior Court, and Family Court operations and clerk's offices. Essential criminal justice and social service agencies also occupy office space in the Moultrie Courthouse. The Courts have clearly outgrown the space available in the Moultrie Courthouse. The

space is inadequate for this high volume court system to serve the public in the heavily populated metropolitan area in and around our Nation's Capital.

Buildings A, B, and C

Buildings A, B, and C, dating from the 1930's, have been used primarily as office space in recent years and today are being renovated and modernized for court operations. The D.C. Courts have begun implementation of the Facilities Master Plan, relocating the Superior Court's two highest volume courtrooms, Small Claims and Landlord Tenant, into Building B. This move vacated space in the Moultrie Courthouse that was immediately renovated for the Family Court, permitting the construction of three new courtrooms, three new hearing rooms, a centralized case intake facility, a family-friendly waiting area, and District government liaison offices for Family Court matters. The first phase of restoration of Building A is complete; the Multi-Door Dispute Resolution Division moved late in 2006 and the Probate Court is scheduled to move to Building A later this year.

COMPLETE BUDGET REQUEST SUMMARY

To build on past accomplishments and to serve the public in the District of Columbia, the Courts require additional resources in fiscal year 2008 as outlined below. Without additional capital resources, the courthouse and the District's historic buildings will continue to deteriorate; without targeted investments in critical areas, the quality of justice in the Nation's Capital will be compromised. The fiscal year 2008 request addresses these requirements by:

—*Full Funding for Authorized Positions.*—To ensure the level of staffing needed for the Courts to fulfill its mission, the budget includes a special request for \$8,432,000. All Court personnel, from judges in courtrooms and clerks at public service counters to managers and support staff, play important roles in the administration of justice in the District. The Courts' mission and strategic goals rely upon highly skilled personnel in sufficient numbers to serve the residents of this jurisdiction and visitors in the Nation's Capital. Unless this most critical issue facing the D.C. Courts is addressed, the Courts will be unable to fill mission-critical positions, and the quality of justice in the District of Columbia will be compromised.

Over several years, increasing personal services costs have outpaced appropriations, resulting in a significant funding shortfall in the Courts' personal services budget. Escalating benefit costs, particularly those for health insurance, underfunded cost of living adjustments (COLAs), and unfunded salary costs (e.g., overtime and night differential) all contribute to the personal services funding gap. The cost of benefits, for example, has increased by 43 percent from fiscal years 2001 to 2005 while personal services appropriations increased by only 13 percent. Cost-of-living-adjustments cost the Courts \$8 million more than the funding provided, from fiscal years 2002 to 2006. Costs for salary components such as overtime have skyrocketed as well.

Because 75 percent of the Courts' budget is comprised of personal services costs, the shortfall has resulted in increased staff vacancies and a hiring freeze. Without the requested funding, the Courts predict a non-judicial vacancy or lapse rate of 15 percent in fiscal year 2008 compared to the government standard of 3 percent. Severe negative consequences on the administration of justice and disruptions to court operations would result from a reduction of nearly one in six persons.

The Courts have taken several steps to address the personal services budget gap, including reengineering business processes, deferring the 2007 cost of living adjustment, implementing a hiring freeze, seeking legislation for buyout authority, limiting travel and training opportunities, curtailing employee incentive awards, and reprogramming funds as permitted by law. However, additional funding is required to permit the Courts to maintain adequate staff to carry out our mission.

—*Infrastructure Investments.*—To ensure the health, safety, and condition of court facilities and to address operational space needs, the fiscal year 2008 capital request totals \$179,790,000. The fiscal year 2008 capital request incorporates the significant research and planning comprising the Facilities Master Plan. In the master plan process, the General Services Administration (GSA) analyzed the Courts' current and future space requirements, particularly in light of the significantly increased space needs of the Family Court, and identified a 134,000 occupiable square feet shortfall over the next ten years. In addition to improved maintenance and upgrade of existing facilities, the Facilities Master Plan recommended a three-part approach to meeting the Courts' space shortfall: (1) restoration of the Old Courthouse at 451 Indiana Avenue to house the D.C. Court

of Appeals and to make additional space available in the Moultrie Courthouse for trial court operations; (2) an addition to the Moultrie Courthouse to accommodate fully consolidated and state-of-the-art Family Court facilities; and (3) re-occupation of Court Building C, adjacent to the Old Courthouse.

—*Old Courthouse.*—The Courts’ capital request includes \$30,000,000 for Old Courthouse restoration costs not included in the construction contract, such as wiring for security, technology and telecom equipment, construction management, and contingency and management reserves.²

—*Moultrie Courthouse.*—Also included in the capital budget request is \$29.1 million to continue work on the Moultrie Courthouse, as delineated in the Facilities Master Plan. Renovation and reorganization of the interior of the Moultrie Courthouse is necessary to shift operations to vacate some of the space required to fully consolidate the Family Court within Moultrie and to upgrade and make efficient use of existing space as envisioned in the Facilities Master Plan.

—*Building Maintenance.*—The capital budget also includes \$55,490,000 to maintain the Courts’ existing infrastructure, preserving the health and safety of courthouse facilities for the public and the integrity of historic buildings for the community. The Courts’ facilities encompass more than 1.1 million gross square feet of space. Over the course of many years, limited resources have forced the Courts to defer routine maintenance of these facilities, leading to increased risk of severe system failures. For example, electrical service to meet modern technology needs is critical, not only to conduct court business, but also to prevent failures that threaten safety, such as electrical fires or transformer explosions.

—*Homeland Security.*—To protect the 10,000 daily visitors to the courthouse and meet increased security threats that face the judiciary nationwide and public institutions post September 11, 2001, the Courts’ request includes \$16,000,000 in capital funds for perimeter security enhancements to protect the occupants of the high-profile court buildings in Judiciary Square.

—*U.S. Marshals Service Space.*—The U.S. Marshals Service provides security for the D.C. Courts and manages hundreds of prisoners who appear in court each day. The adult cellblock and Marshals Service office space in the Moultrie Courthouse require modernization and upgrade to comply with current standards. The Courts are working with the Marshals Service on a study to determine the requirements in a comprehensive manner. We initiated the study in March and expect it to be complete on May 3. Although the preliminary cost estimate is \$42 million for the construction work, the additional cost of the security equipment has not yet been determined.

—*Furniture and Equipment for the Restored Old Courthouse.*—The Courts’ request includes \$2,589,000 to furnish and equip the Old Courthouse upon restoration. As noted above, the restoration of the Old Courthouse for this jurisdiction’s highest court, the D.C. Court of Appeals, is in progress. To prepare to move into the structure and efficiently use the space as planned, furniture and equipment must be procured in fiscal 2008.

—*Services for Citizens.*—To enhance services to some of the District’s most vulnerable residents, \$2,184,000 and 10 FTEs are requested. This figure includes \$853,000 and 2 FTEs to provide statutorily-mandated advocates for mentally retarded individuals who are wards of the District; \$771,000 and 5 FTEs to provide services and additional probation officers for youths under court supervision; \$375,000 for interpreters who provide sign language and foreign language interpretation for litigants; and \$185,000 and 3 FTEs to enhance monitoring of the status of incapacitated adults with court-appointed guardians.

—*Technology, Financial, Materiel, and Facilities Management.*—To enhance technology, financial, materiel, and facilities management, \$1,607,000 and 10 FTEs are requested. Included in the total are \$331,000 for software maintenance fees for the trial court case management system (CourtView); \$585,000 for warehouse space to store court records and materials, \$363,000 and 6 FTEs for building engineers and services; \$255,000 for accounting staff; and \$73,000 for a materiel management function.

—*Built-In Increases.*—The fiscal year 2008 request also includes \$4,155,000 for a cost-of-living adjustment, \$1,630,000 for non-pay inflationary cost increases, and \$1,412,000 for within-grade increases. The Courts’ request includes within-grade increases for employees because unlike typical agencies, which may fund

²Because the Courts’ budget submission was prepared before the fiscal year 2007 budget was enacted, it also includes \$13 million to complete financing of the construction contract for the renovation.

these increases through cost savings realized during normal turnover, the Courts have a very low turnover rate (5.5 percent in fiscal year 2006), a hiring freeze, and a funding shortfall in personal services.

—*Defender Services Enhancements.*—In recent years, the Courts have devoted particular attention to improving the financial management and reforming the administration of the Defender Services programs. For example, the Courts have significantly revised the Criminal Justice Act (CJA) Plan for representation of indigent defendants to ensure that highly qualified attorneys represent indigent defendants. In addition, the Courts have developed a new Counsel for Child Abuse and Neglect (CCAN) Plan for Family Court cases, adopting attorney practice standards and requiring attorney training and screening to ensure that well-qualified attorneys are appointed in these cases, and contracting for Guardian ad litem (GAL) services to enhance representation of abused and neglected children. The Guardianship Program has also been revised, imposing a training requirement on attorneys participating in the program.

In the Defender Services account, the Courts' fiscal year 2008 budget request represents an increase of \$9,000,000 over the fiscal year 2007 level. This increase reflects a compensation adjustment for attorneys from \$65 to \$90 per hour, to keep pace with the rate paid court-appointed attorneys at the Federal courthouse across the street from the D.C. Courts and to ensure that the indigent receive high quality legal representation.

CONCLUSION

Mister Chairman, Senator Brownback, Subcommittee members, the District of Columbia Courts have long enjoyed a national reputation for excellence. We are proud of the Courts' record of administering justice in a fair, accessible, and cost-efficient manner. Adequate funding for the Courts' fiscal year 2008 priorities is critical to our success, not only in the next year but also as we implement plans to continue to provide high quality service to the community in the future. We appreciate the President's support for the Courts' funding needs in 2008 and the support we have received in the past from the Congress. We look forward to working with you throughout the appropriations process, and we thank you for this opportunity to discuss the fiscal year 2008 budget request of the District of Columbia Courts.

Senator DURBIN. Judge King, many years ago we worked together in the creation of the Family Court and I welcome you today.

STATEMENT OF RUFUS G. KING III, CHIEF JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Judge KING. We did indeed, Mr. Chairman and we at the Superior Court are very grateful for the contributions you made to that very successful legislation.

Mr. Chairman, subcommittee members, thank you for this opportunity to discuss the fiscal year 2008 budget request of the District of Columbia Courts. I'm Rufus G. King III, Chief Judge at the Superior Court of the District of Columbia, the city's trial court.

OPERATING BUDGET PRIORITIES

Chief Judge Washington's statement on behalf of the Joint Committee on Judicial Administration details both courts' complete budget request, so I will highlight Superior Court issues. The highest priorities described by Chief Judge Washington are also critical to the Superior Court.

The personal services budget shortfall that Chief Judge Washington described has had a negative impact in both courts, but its impact on the trial court has been especially severe. In the Superior Court, more than one in eight positions is vacant and in every area of court operations the effect is being felt. I cannot overstate the importance of court staff to trial court operations. Judges in the courtroom can only do their jobs sufficiently and effectively when

supported by adequate staff. The Superior Court prides itself on innovative programs designed to respond to the needs of the community we serve. For example, our domestic violence unit provides access to law enforcement and social service assistance in the courthouse and at a satellite center in Southeast, where many of the victims live.

FAMILY COURT UPDATE

More than 5 years into the development of the Family Court, we have implemented every aspect of the Family Court Act of 2001 and continue to look for improvements. This year, we opened a Balanced and Restorative Justice Drop-In Center in Anacostia, which offers services for the rehabilitation of juveniles, including probation supervision, tutoring, mentoring, peer mediation, and field trips for youths and their families.

We have opened a Family Court Self-Help Center, in addition to ones that we've opened in Landlord Tenant Court, Small Claims Court, and Probate Court. In this self-help center, employees work with volunteer attorneys to provide unrepresented litigants with legal information on family law matters.

We have established a Family Treatment Court to help mothers with substance abuse issues without separating them from their children. The court has developed attorney practice standards and created attorney panels for neglect cases in the Family Court and juvenile cases, as well as for the probate and criminal bar to better assure adequate legal representation for litigants in these vital areas.

All of these programs rely on staff to serve the public directly, to coordinate pro bono services with the bar and private organizations, and to collaborate with other Government agencies. We are leveraging grant funds and pro bono services as much as we can, but the Superior Court must have adequate staff to carry out its mission of administering justice in the Nation's capital. For that the \$8.4 million we've requested is critical.

On the capital side, the new family friendly facility on the JM level of the Moultrie Courthouse houses the new Central Intake Center for all Family Court clerk's office functions. The Mayor's Services Liaison Center coordinates provision of social and other services by our District of Columbia partner agencies. Earlier this year, we completed its build out with the unveiling of a new family sculpture at the entrance to the Family Court.

CAPITAL BUDGET PRIORITIES

Restoration of the old courthouse for the Court of Appeals will benefit the Superior Court as well as the Court of Appeals by freeing up approximately 37,000 square feet of space in the Moultrie Courthouse for trial court operations. This will allow us to complete consolidation of the Family Court, while also addressing other space needs in the Superior Court.

CONCLUSION

In conclusion, Mr. Chairman, the Superior Court is proud of our efforts to enhance the administration of justice and to be respon-

sive to the community we serve. We appreciate the support Congress and the President have shown in helping us carry out our goals and we believe we have been good stewards of the taxpayers hard-earned funds.

PREPARED STATEMENT

Thank you for this opportunity to address the subcommittee. I'd be happy to answer any questions you might have.

Senator DURBIN. Thank you, Judge King.

[The statement follows:]

PREPARED STATEMENT OF CHIEF JUDGE RUFUS G. KING III

Mr. Chairman, Senator Brownback, subcommittee members, thank you for this opportunity to discuss the fiscal year 2008 budget request of the District of Columbia Courts. I am Rufus G. King III, Chief Judge of the Superior Court of the District of Columbia. As you know, the Superior Court is the trial court for the District of Columbia. It is a unified court of general jurisdiction, hearing matters brought to court under all areas of District of Columbia law.

Chief Judge Washington's statement on behalf of the Joint Committee on Judicial Administration details the Courts' complete budget request, so I will highlight Superior Court issues as part of the larger D.C. Courts budget request and capital project needs.

The personal services budget shortfall that Chief Judge Washington described has had a negative impact courtwide. For the Superior Court, this shortfall has resulted in a 13 percent vacancy rate today, meaning that one in eight non-judicial positions are vacant. Every area of court operations is suffering from these excessive vacancies. We are leveraging grant funds and pro bono services as much as we can, but the Court must have adequate staff to carry out its mission of administering justice in the Nation's Capital.

RESPONSIVENESS TO THE COMMUNITY

The Superior Court prides itself on innovative programs designed to respond to the needs of the community we serve. I would like to share with you a few of the programs, some mentioned in Chief Judge Washington's statement, that the Superior Court has put in place to support our strategic goals of increasing public access and enhancing public trust and confidence in the courts.

Self-Help Centers

Tens of thousands of individuals come to the Superior Court each year to have their disputes resolved without the assistance of an attorney. The Court has teamed with the D.C. Bar and local law schools to provide resource centers to assist these self-represented litigants as they navigate the court system.

- The Landlord Tenant Resource Center uses volunteer attorneys to provide legal information to landlords and tenants without lawyers. Services include helping them understand the court proceedings, helping them prepare pleadings, giving advice on how to present their cases, making referrals to legal service providers or social services resources.
- The Small Claims Resource Center is a collaborative effort with the D.C. Bar Pro Bono Program, the Neighborhood Legal Services Program, and local law schools to assist litigants with small claims cases at the court. Volunteer attorneys help self-represented litigants understand the court proceedings, help them prepare documents, give them advice on how to present their cases, and make referrals to legal service providers.
- The Family Court Self-Help Center provides free walk-in service to self-represented litigants with general legal information on family law matters, such as divorce, custody, visitation, child support. Court staff members inform litigants of their rights and obligations, describe legal options, help litigants identify which forms to use, and make referrals.

Satellite Offices

The Domestic Violence Unit operates a Domestic Violence Satellite Center at Greater Southeast Hospital to provide a community-based alternative location to the courthouse for victims of domestic violence. This office provides easy access to the Superior Court for victims of domestic violence who reside east of the Anacostia

River, where 60 percent of those filing domestic violence cases live. Both the Satellite Center and the Domestic Violence Intake Center at the courthouse involve collaborations with other government and community groups to provide “one-stop-shopping” for victims of domestic violence to help them access needed social services and law enforcement resources.

The Court operates three juvenile probation field units, where young people meet with their probation officers and attend programs in or near their own neighborhoods. Our Family Court Social Services Division is restructuring the manner in which probationers are supervised and rehabilitated to adopt a more holistic approach that, we believe, will result in better outcomes. In February, the Court opened the first Balanced and Restorative Justice Drop-In Center, which includes a probation supervision office and a community-based satellite courtroom and offers services including tutoring, mentoring, education and prevention groups, peer mediation, recreation, and field trips to youth and their families.

Specialized Courts

The Court stays abreast of best practices among courts nationwide and has several programs that combine therapeutic and restorative justice principles to improve public safety in our community and to enhance case outcomes for litigants. In addition to the drug courts we have operated for many years, we have three more recent programs.

- The Family Treatment Court, which celebrated its 7th graduation ceremony last November, helps keep children out of foster care and with their mothers (or other female guardians) while providing substance abuse treatment to the parent. In the Family Treatment Court, a collaborative program with the Mayor’s Service Liaison Office, the children live with their mothers in a residential substance abuse treatment program. The treatment facility provides on-site and community-based services, including substance abuse education and treatment, parenting skill workshops, counseling and childcare.
- The Truancy Court is a diversion program designed to increase school attendance and improve academic performance and behavior of at-risk children. In collaboration with several D.C. government agencies, Family Court judges meet weekly with children at Garnett Patterson Middle School and Kramer Middle School and, through rewards and corrective actions, promote compliance with a school attendance plan of action developed for each child and family.
- Two criminal Community Courts, the D.C./Traffic Community Court and the East of the River Community Court, focus largely on quality-of-life offenses such as possession of an open container of alcohol, aggressive panhandling, disorderly conduct, and low-level theft, through a variety of responses. These community courts frequently require community service to “pay back” the community. They also seek to reduce the likelihood of future offenses by linking offenders with services they may need, such as drug treatment, job training, and mental health services. Community input is a key element of the community court. At town hall meetings judges go to the community to listen to their concerns and learn what the court can do to strengthen our communities and to improve public confidence in the justice system.

TECHNOLOGY

To enhance service to the public, to operate more efficiently, and to support our strategic goal of improving court technology, the Court has undertaken a number of technology initiatives. I would like to highlight a few of these.

Integrated Justice Information System (IJIS)

I am very pleased to report that we have completed implementing the Integrated Justice Information System (IJIS) throughout the Superior Court. This multi-year technology initiative was designed to facilitate case management and linkage of family members (which is essential to implementing the one family, one judge principle in Family Court), to enhance automation of the Court’s business processes, to equip employees with productivity-enhancing tools, to provide a seamless exchange of information between the Court and other local and national criminal justice agencies, and to enhance services to the public by, among other things, enabling case filing and payment of fees in one location. As IJIS is enhanced, electronic case access and filing will be available through the Internet. IJIS has consolidated 19 different databases and provides comprehensive information to judicial officers. IJIS implementation has also given us an opportunity to improve information sharing within and among the District’s child welfare and criminal justice agencies.

E-filing

In a related step in the automation of case processing, the Superior Court last fall expanded e-filing. After a transition period, e-filing became mandatory for Civil II cases for parties represented by counsel. E-Filing provides the public and the legal community with user-friendly, low-cost access to the Courts. The new system allows documents filed with the Superior Court to be transmitted over the web for acceptance into the IJIS. The system generates electronic notifications to all parties, as well as to the judge in the case. E-filing was implemented in the Superior Court in May 2005 to increase the timeliness, efficiency, and accuracy of court filing.

Web-based Juror Services

To enhance services for jurors, the Court initiated an interactive juror website that allows jurors to view their last or next scheduled date of service, complete the juror questionnaire, and defer their service for up to 90 days online.

CONCLUSION

Mr. Chairman, Senator Brownback, the D.C. Superior Court is proud of our efforts to enhance the administration of justice, to be responsive to the community we serve, and to implement technology that enhances our service to the public. We appreciate the support Congress and the President have shown in helping us carry out all of those goals, and we believe we have been good stewards of the taxpayers' hard-earned funds. We hope that the Court's request for funding for personal services adequate to bring our vacancy rate down from 13 percent to a more normal 3–4 percent will meet with the subcommittee's approval.

Thank you for this opportunity to address the subcommittee. I would be pleased to answer any questions you may have.

Senator DURBIN. Mr. Quander.

STATEMENT OF PAUL A. QUANDER, JR., ESQ., DIRECTOR, COURT SERVICES AND OFFENDER SUPERVISION AGENCY

Mr. QUANDER. Good afternoon, Mr. Chairman. I'm pleased to appear before you today to present the fiscal year 2008 budget request for the Court Services and Offender Supervision Agency for the District of Columbia, which includes the District of Columbia Pre-Trial Services Agency.

CSOSA's fiscal year 2008 budget request of \$190.3 million includes \$140.4 million for the Community Supervision Program, which supervises sentenced offenders in the community on probation, parole or supervised release, and \$49.9 million for the Pretrial Services Agency, which supervises and monitors pre-trial defendants.

Our fiscal year 2008 request increases total funding by 6 percent or \$10.7 million over fiscal year 2007. The majority of the requested increase, \$6.2 million, will enable us to absorb salary and general schedule cost increases without curtailing program services.

The Community Supervision Program requests an additional \$2.1 million adjustment to base to achieve full implementation of a major program enhancement, our Residential Re-entry and Sanctions Center (RSC). This increase will allow us to open the Re-entry and Sanctions Center's sixth and final unit which will serve the female offender and defendant populations.

The RSC, as the center is commonly referred to, is a tremendous resource for CSOSA and the citizens of the District of Columbia. It will enable us to provide re-entry programming for high risk offenders and defendants at the point of release. We can also respond quickly to noncompliant behavior, intervening before new criminal activity occurs. Research tells us that both strategies are critical to successful supervision.

When CSOSA was established in 1997, reducing the high caseload of probation and parole officers was a top priority. While we have lowered general supervision caseloads to the 50 cases per officer recommended by the American Probation and Parole Association, high pre-trial defendant caseloads continue to pose a serious risk to public safety.

The Pretrial Services Agency's general supervision units supervise or monitor approximately 3,500 defendants on each and every day. In fiscal year 2006, many pre-trial supervision officers in these units carried an average caseload of 115 defendants. At this level meaningful supervision cannot be maintained.

In choosing to impose pre-trial supervision, the court assumes that release conditions will be enforced and infractions will be reported. With the current high caseloads, PSA is not able to provide the level of supervision that the court expects.

PSA requests \$1.6 million and nine full-time equivalent positions to lower its general supervision caseloads to 75 defendants per pre-trial supervision officer. While still higher than neighboring jurisdictions, this caseload will result in closer supervision and more timely response to infractions.

Technology is an essential component of effective supervision. PSA also requests \$768,000 and three full-time equivalent positions to expand the technology available to pre-trial services officers. This request would add wireless cellular and global positioning systems monitoring capability to PSA's existing electronic monitoring program.

Wireless cellular technology extends electronic monitoring to defendants who do not have a hard wired home telephone. Global positioning system (GPS) monitoring would allow PSA to quickly determine a defendant's location and track his or her movements. In addition, GPS monitoring can be used to notify authorities when a defendant violates a court order by approaching a school, known drug area or victim's home.

In the 10 years since its founding, CSOSA has transformed community supervision in the District of Columbia. As a young agency we are still building critical elements of our infrastructure. Initiatives such as information technology, disaster recovery, fully modernized personnel and financial information systems and other enhancements are essential to ensuring our full compliance with Federal regulations.

We also face continued facility challenges, particularly at 300 Indiana Avenue—the building that we share with the Metropolitan Police Department.

In closing I would like to thank the ranking member, Senator Brownback for his past efforts to make funding available to us for transitional housing. Lack of appropriate, affordable housing continues to be a major obstacle to successful re-entry.

PREPARED STATEMENT

CSOSA's fiscal year 2008 budget enables us to continue implementing proven strategies to protect the public through effective community supervision. We look forward to the subcommittee's support of this request and I look forward to responding to any questions that this subcommittee may have. Thank you very much.

Senator DURBIN. Thanks, Mr. Quander.
[The statement follows:]

PREPARED STATEMENT OF PAUL A. QUANDER, JR.

Chairman Durbin and Members of the Subcommittee: I am pleased to appear before you today to present the fiscal year 2008 budget request for the Court Services and Offender Supervision Agency (CSOSA), which includes the D.C. Pretrial Services Agency (PSA). CSOSA was established by the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act). Following a three-year transition period under the leadership of a trustee, CSOSA was certified as an independent Executive Branch agency on August 4, 2000.

CSOSA's fiscal year 2008 budget request of \$190.3 million is comprised of a \$140.4 million request for the Community Supervision Program, which supervises sentenced offenders in the community on probation, parole, or supervised release, and a \$49.9 million request for PSA, which supervises and monitors pretrial defendants. Our fiscal year 2008 request increases total funding by 6 percent, or \$10.7 million, over fiscal year 2007 enacted levels.

The majority of the requested increase, \$6.2 million, would enable us to absorb salary and General Schedule cost increases without curtailing program services. The Community Supervision Program requests an additional \$2.1 million adjustment to base to achieve full implementation of a major program enhancement, our residential Reentry and Sanctions Center (RSC). This increase will allow us to open the RSC's final unit, making the program model, which emphasizes intensive assessment, case planning, and treatment readiness services, available to the female offender population. We look forward to having all six units in operation.

The RSC is a tremendous resource for CSOSA, enabling us to provide reentry programming for high-risk offenders at the point of release, thereby increasing the likelihood that they will succeed in the community. This program is also available to high-risk defendants on pretrial release. Most individuals who complete the program then enter CSOSA's substance abuse treatment continuum. They often require placements in residential, transitional, and outpatient services to complete treatment. CSOSA continues to look at ways to maximize treatment efficiency and ensure that we make as many successful placements as possible.

The RSC also facilitates our quick response to defendants' and offenders' non-compliant behavior before it escalates and leads to new criminal activity. Research tells us that timely intervention and consistent sanctions are critical to effective community supervision. With the RSC, CSOSA has greatly increased its capacity to provide both.

When Congress passed the Revitalization Act in 1997, one of the most distressing conditions facing the new agency was the high caseloads carried by D.C.'s probation and parole officers. In many instances, these caseloads, often exceeding a hundred cases per officer, prohibited meaningful levels of contact and monitoring. Probation and parole officers could often do little more than check for new warrants and process paperwork. Meaningful assessment, referrals to treatment and other services, and field visits were virtually impossible.

The Community Supervision Program therefore made lower caseloads its first priority. General supervision caseloads have been lowered to the 50 cases per officer recommended by the American Probation and Parole Association. Specialized caseloads, for higher-risk offenders or those with significant mental health issues, are even lower.

These lower caseloads, coupled with improved technology, have enabled our officers to implement a level of intervention that was previously unthinkable. In fiscal year 2006, Community Supervision Officers partnered with Metropolitan Police Department (MPD) officers on over 7,000 joint field visits, or accountability tours, monitoring over 4,000 high-risk cases. This year, we also implemented an automated assessment instrument that uses over 200 separate data elements, collected during an in-depth interview with the offender, to measure and score the offender's risk level. This data informs a prescriptive supervision plan that addresses each offender's programming needs. Without this level of contact or knowledge, we cannot hope to achieve our long-term goal of substantially reducing recidivism among the 15,000 offenders we supervise, of whom 6,300 are classified as high-risk. Lower caseloads are the baseline condition necessary for us to achieve our public safety mission.

The high-risk defendants under PSA's supervision pose a similar risk to public safety. PSA supervises or monitors approximately 5,500 men and women every day. Approximately 3,500 of them are assigned to PSA's General Supervision Units. In fiscal year 2006, many Pretrial Supervision Officers (PSOs) in those units carried an average caseload of 115 defendants—significantly above the level at which proba-

tion and parole caseloads were once deemed too high to maintain meaningful supervision.

Defendants released to General Supervision have been charged with a range of offenses. In fiscal year 2006, 28 percent of those cases were charged with crimes that are statutorily defined as dangerous and/or violent; 37 percent were charged with crimes against persons. Even though many of these defendants are potentially eligible for pretrial detention, the Court has determined that initial, supervised placement in the community is appropriate. In making that determination, however, the Court expects that supervision will occur, conditions of release will be enforced, and non-compliance will be reported promptly.

With the current high caseload ratios, PSA is not able to provide the supervision that the Court expects. In fiscal year 2006, 48 percent of defendants released with drug testing conditions were non-compliant three or more times. Each of these violations warranted a response by the PSO. With such high caseloads, PSOs often cannot respond quickly, despite the statutory requirement that every violation be reported to the prosecutor and the Court.

PSA data from fiscal year 2004 reveals that timeliness is particularly important when the defendant has a history of domestic violence. Of 400 defendants with domestic violence charges who were rearrested while on pretrial release, about a third were rearrested for another domestic violence incident. These rearrests also tended to occur earlier in the supervision period than rearrests of defendants with other charges.

PSA requests \$1.6 million and 9 FTE to lower its General Supervision caseloads to 75 defendants per PSO. While still higher than neighboring jurisdictions, this caseload will facilitate closer supervision and more timely response to infractions. Nationwide, federal pretrial supervision caseloads range from 40 to 75 cases per officer. Defendants prosecuted in the District of Columbia typically have more extensive prior criminal records than do defendants in federal courts, and are often in need of employment, education, and treatment services. Effective supervision of these defendants cannot take place with caseloads higher than 75 cases per officer.

Technology is an essential component of effective supervision and can greatly improve the officer's ability to monitor behavior. PSA also requests \$768,000 and 3 FTE to expand technological tools available to Pretrial Service Officers. This request would fund the addition of wireless cellular and Global Positioning Systems (GPS) monitoring to PSA's existing electronic monitoring program. These two newer, more effective technologies are currently being used in many jurisdictions to monitor defendants who cannot be effectively supervised using traditional electronic monitoring. Wireless cellular technology extends this type of monitoring to defendants who do not have a hard wired home telephone. GPS monitoring would allow PSA to quickly determine the location of a defendant at any time as well as track his or her movement. In addition, GPS monitoring can be used to notify the authorities when a defendant enters restricted areas, such as schools, known drug areas, or a victim's neighborhood, in violation of the court's orders. Combining reduced caseloads with technological enhancements will enable PSA to achieve maximum efficiency in the supervision of high-risk defendants. GPS supervision has proven very effective in the Community Supervision Program, where it is primarily used as a short-term sanction for high-risk offenders.

Since becoming a federal agency in August 2000, CSOSA has transformed community supervision in the District of Columbia. Using best practices, advanced technology, and wide-ranging collaborations, we are helping the men and women we supervise to change their lives. In doing so, we make a positive impact on our city and our field. People are hearing our message: After CSOSA's presentation on partnerships at last summer's Black Police Association International Education and Training conference, a delegation from the United Kingdom's National Probation Service arranged to spend a week with us. They have taken our program model back home to Manchester, England, to inform how community supervision occurs there.

We look forward to demonstrating the results of our efforts. We will soon complete our initial three-year recidivism study. Later this spring, we will implement a performance accountability system modeled on New York State's "Parole Stat." We recently completed the first phase of a comprehensive study of our supervision practices. And we continue to work with our partners in implementing new and promising strategies: Through the Criminal Justice Coordinating Council, we are currently working with the U.S. Marshals Service, the U.S. Parole Commission, the D.C. Superior Court, the U.S. Attorney, the MPD, and the Washington faith community to bring Fugitive Safe Surrender to our city. This program, which has resulted in the surrender of thousands of fugitives with non-violent and misdemeanor warrants, has been successfully implemented in Cleveland and Phoenix, and is also

planned for Indianapolis. I am committed to bringing it to the District of Columbia. Not only will it safely remove fugitives from our streets, it will also give many of these men and women the opportunity to reclaim their identities and re-enter their communities.

As a young agency, we have made substantial progress, though much work remains to be done. Some critical elements of our infrastructure—such as Information Technology (IT) disaster recovery, fully modernized personnel and financial information systems, and other enhancements necessary to ensure our full compliance with federal regulations—are still being implemented. We also face continued facilities challenges, particularly at 300 Indiana Avenue, the building we share with the Metropolitan Police Department. Addressing these issues is essential to our continued maturation as an agency.

In 1997, the District of Columbia faced a community supervision system that was overburdened and under-resourced. We have revived that system, turning the nation's capital into a national leader. Our fiscal year 2008 budget enables the continued implementation of these proven strategies. We look forward to the subcommittee's support of this request.

Senator DURBIN. Ms. Buchanan.

STATEMENT OF AVIS E. BUCHANAN, ESQ., DIRECTOR, PUBLIC DEFENDER SERVICE

Ms. BUCHANAN. Good afternoon, Mr. Chairman. My name is—

Senator DURBIN. If you'll make sure you activate the mic, thank you.

Ms. BUCHANAN. Thank you. Good afternoon, Mr. Chairman. My name is Avis Buchanan and I have the honor of serving as the Director of the Public Defender Service for the District of Columbia. I come before you today to provide testimony in support of PDS's fiscal year 2008 budget request.

The Public Defender Service for the District of Columbia, or PDS, is an independent legal organization governed by a Board of Trustees. PDS is widely recognized as one of the best public defender offices in the country and is, in my humble opinion, the best.

In the District of Columbia both PDS and the local courts separately provide constitutionally mandated defense representation to people who cannot afford to pay for their own attorney. Under the District's Criminal Justice Act, the courts appoint PDS generally to the more serious, more complex, more resource intensive and time consuming criminal cases.

The courts assign the remaining, far more numerous but less serious cases and almost all of the misdemeanor and traffic cases, to a panel of approximately 350 prescreened private attorneys who was appointed to cases under the District's Criminal Justice Act and who are known as CJA attorneys. This dual system of representation is used in the Federal criminal justice system and is the model favored by the American Bar Association as an effective and cost efficient system.

Approximately 110 staff attorneys at PDS and a similar number of administrative staff represent children and adults in the most serious felony cases, criminal appeals, serious delinquency cases, parole revocation matters, involuntary civil commitment cases in the mental health system and the Superior Court's Drug Court Treatment Program.

Our fiscal year 2008 budget request parallels our request for fiscal year 2007: \$32.7 million or 5 percent above the enacted level for fiscal year 2007, which was a level of \$30.9 million.

With these funds PDS will absorb salary and inflationary increases to continue to improve our human capital management and comply with the D.C. Court of Appeals' request to do more to help reduce the backlog of cases pending before that court—all while sustaining the high quality advocacy that the criminal justice system is accustomed to seeing from PDS.

FAVORABLE SURVEY RESULTS

PDS's fiscal year 2006 accomplishments are exemplified in the results of two surveys PDS conducted as part of its strategic planning work.

During fiscal year 2006, we asked our counterparts in the CJA bar and some of our clients about their opinions of the quality of PDS's representation. Of the CJA bar respondents, 95 percent agreed that PDS attorneys provide and promote quality representation to indigent adults and children facing a loss of liberty. Ninety-three percent agree that PDS promotes society's interest in the fair administration of justice. Over 90 percent agree that the training PDS provides to the CJA bar is effective and relevant to defending their clients.

The client survey yielded one particularly compelling comment, slightly edited for clarity.

"To give you a sense of just how satisfied I am with the D.C. PDS, you must understand that I was convicted of three life offenses. I will most likely die in prison. I know that most clients cannot appreciate just how good the quality of PDS is. Had I been a rich man, if I'd had an obscene amount of money to pay a WASPy, white shoe firm, I could not have gotten a better defense. I was defended with an aggression by lawyers that showed a range and depth of knowledge and experience that I had never before witnessed in a member of the civil service."

These survey results are consistent with the results of a survey of local, trial, and appellate judges that PDS conducted in 2004. One appellate judge wrote, "Of all the litigants' counsel to come before the Court of Appeals on a regular basis, PDS lawyers are uniformly better. They give this judge, and I believe all judges, a sense that their clients are soundly and zealously represented while giving the court considered legal arguments. If I were facing prosecution in the District, I would want PDS to represent me."

I continue to be proud of the extraordinary work the staff of PDS has done in service to our clients. I would like to thank this subcommittee and the chairman for your time and attention to these matters and for your support of our work in the past.

PREPARED STATEMENT

I would be happy to answer any questions the subcommittee may have. Thank you.

Senator DURBIN. Thank you.

[The statement follows:]

PREPARED STATEMENT OF AVIS E. BUCHANAN

Good afternoon Mr. Chairman and members of the Subcommittee. My name is Avis E. Buchanan, and I am the Director of the Public Defender Service for the District of Columbia (PDS). I come before you today to provide testimony in support of PDS's fiscal year 2008 budget request. We thank Subcommittee members for their support of our programs in previous years.

With fiscal year 2006, the Public Defender Service added another year of providing excellent defense representation to people in the District of Columbia. Since

1970, when PDS was established as a model public defender serving in the newly created District of Columbia Superior Court, PDS has developed and maintained a reputation as the best public defender office in the country—local or federal. PDS has become the national standard bearer and the benchmark by which other public defense organizations often measure themselves in a number of practice and administrative areas.

In fiscal year 2008, PDS plans to work with the District of Columbia Court of Appeals to reduce the court's backlog of criminal appeals, continue to support PDS's human capital improvement plans, and continue to better assess its baseline costs.

PDS's fiscal year 2008 budget request supports PDS's human capital improvement plans by seeking a budget that keeps pace with inflationary increases and yet allows for PDS to build modestly on its human capital plans. PDS requests \$32,710,000, a "flat" budget as compared with the President's fiscal year 2007 request,¹ to permit the office to maintain fiscal year 2007 salary levels and most costs associated with inflation. PDS's fiscal year 2006 budget was slightly lower than the level of the President's fiscal year 2005 budget request; with this essentially "flat" fiscal year 2006 budget, PDS focused on increasing and improving its internal efficiencies and maintained stable staffing levels.

BACKGROUND

In 1997, Congress enacted the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act),² which relieved the District of Columbia of certain "state-level" financial responsibilities and restructured a number of criminal justice functions, including representation for indigent individuals. The Revitalization Act instituted a process by which PDS submitted its budget to Congress and received its appropriation as an administrative transfer of federal funds through the Court Services and Offender Supervision Agency (CSOSA) appropriation. The President's fiscal year 2008 budget requests that PDS receive a direct appropriation from the Congress. In accordance with its enabling act, PDS remains a fully independent organization and does not fall under the administrative, program, or budget authority of CSOSA. Rather, due to the constitutional mandate it serves, PDS necessarily maintains a separate and distinct mission from the missions of CSOSA and the Executive Branch.

In the District of Columbia, PDS and the local District of Columbia courts share the responsibility for providing constitutionally mandated defense representation to people who cannot pay for their own attorney. Under the District of Columbia's Criminal Justice Act (CJA),³ the District of Columbia courts appoint PDS generally to the more serious, complex, resource-intensive, and time-consuming criminal cases. The courts assign the remaining, less serious cases and most of the misdemeanor and traffic cases to a panel of approximately 350 pre-screened private attorneys ("CJA attorneys").⁴ Approximately 110 PDS staff lawyers are appointed to represent: the majority of people facing the most serious felony charges; a substantial number of individuals litigating criminal appeals; a significant number of the children facing serious delinquency charges; nearly 100 percent of people facing parole revocation; and the majority of people in the mental health system who are facing involuntary civil commitment.

While much of our work is devoted to ensuring that no person is ever wrongfully convicted of a crime, we also provide legal representation to recovering substance abusers participating in the highly successful Drug Court treatment program, and to children in the delinquency system who have learning disabilities and require special educational accommodations under the Individuals with Disabilities in Education Act.⁵

The Public Defender Service, unique among local public defender offices in that it is federally funded, has always been committed to its mission of providing and promoting constitutionally mandated legal representation to adults and children facing a loss of liberty in the District of Columbia who cannot afford a lawyer, and PDS has had numerous significant accomplishments in pursuit of that mission. In addition, PDS has developed innovative approaches to representation, from instituting measures to address the problems of incarcerated clients who are returning

¹ The President's fiscal year 2007 budget request would have provided \$32,710,000 for PDS. In February 2007, Congress funded PDS for the remainder of fiscal year 2007 at the level of \$30,898,000, plus 50 percent of the Cost of Living Allowance, for an effective fiscal year 2007 budget of \$31,103,000.

² Pub. L. No. 105-33, Title X (1997).

³ D.C. Code §11-2601 et seq. (2001 Ed.).

⁴ An additional 75 CJA attorneys handle juvenile matters.

⁵ 20 U.S.C. § 1400, et seq.

to the community to creating a one-of-a-kind electronic case tracking system. Other public defender offices across the country have sought counsel from PDS as they have patterned their approach to their work after ours.

As part of its statutory mission to promote quality criminal defense representation in the District of Columbia as a whole, PDS continues to provide training for other District of Columbia defense attorneys and investigators who represent those who cannot afford an attorney, and to provide support to the District of Columbia courts.

FISCAL YEAR 2008 REQUEST

The Public Defender Service's fiscal year 2008 budget request is for funding at the same level as that contained in the President's fiscal year 2007 request, or \$32,710,000. PDS's actual apportionment under the full year fiscal year 2007 Continuing Resolution is five percent lower at \$31,103,000. PDS's fiscal year 2008 request requires that PDS absorb normal and customary business cost increases and new costs not previously identified as part of base level funding. This will be the second time within four years that PDS has requested to manage to an essentially flat budget: in fiscal year 2006, PDS proposed retaining a budget level of \$29,535,000 that was slightly lower than the fiscal year 2005 enacted level of \$29,594,000, net of rescissions. While managing in fiscal year 2008 to a budget level that is flat with the President's fiscal year 2007 budget will present a challenge for PDS, PDS believes it can accomplish this without adversely impacting the constitutionally mandated legal services it provides to individuals in the District of Columbia.

PDS'S IMMEDIATE NEEDS

PDS faces two major challenges over the next several years that require planning and flexibility:

—*Escalating Baseline Costs.*—PDS has been assessing and evaluating the true cost of its base funding since the passage of the Revitalization Act. In fiscal year 2008, PDS will have to absorb several items beyond its control that have not been previously included in PDS's base. For example, it has been determined that, starting in fiscal year 2008, as a federally funded entity, PDS must comply with the Federal Employees' Compensation Act (FECA).⁶ The law requires that the Department of Labor (DOL) submit a bill to each federal entity for the program liability that will occur in future years. PDS has received notice from DOL that PDS's FECA liability payment for fiscal year 2008 will be \$130,000. Another cost beyond PDS's control is the cost of transcription services. Recordings must be reduced to transcripts for use in court proceedings. As law enforcement and the government rely increasingly on digitally recorded evidence, PDS's transcription costs will soar. PDS saw the first indications of this change in a recent case in which the transcription costs were \$15,000. This change is estimated to increase PDS's transcription costs by \$100,000 annually by fiscal year 2008. A final example is the cost of mileage reimbursements. PDS is constitutionally required to investigate cases and meet with clients. Pre-trial case work requires investigators to travel many miles around the D.C. metropolitan area locating and speaking with witnesses, and meeting clients often requires trips to prison facilities throughout the mid-Atlantic region. The rate of reimbursement for mileage is not within PDS's control and is likely to be substantially higher in fiscal year 2008 than the current rate.

—*Appellate Workload.*—PDS is under unusual pressure from the District of Columbia Court of Appeals to expand its Appellate Division staff to help the Court meet its performance goal of reducing the time required to resolve cases. PDS has responded by hiring three new appellate attorneys (two of whom will be brought on board toward the end of this fiscal year), but is constrained by space limitations to respond further. This solution cannot be sustained over the long term, and PDS has no reasonable expectation that this workload pressure will abate.

Despite these challenges, PDS believes it can manage to a restricted budget in fiscal year 2008. PDS plans to manage hire lag so that vacancies will not jeopardize client representation, but will generate savings in salary to help offset the usual labor cost increases expected in fiscal year 2008 and the increases in non-discretionary fixed costs (e.g., rent, litigation costs). By incorporating a longer hiring lag, by keeping about 10 positions unfilled, and by controlling costs, PDS will manage to the requested \$32,710,000 that matches the fiscal year 2007 budget request.

⁶ 5 U.S.C. § 8147 (1993).

Any reduction in funds from the President's fiscal year 2008 budget request for PDS however, will directly impact services. PDS's budget line items are fixed, with little flexibility on the part of PDS to decrease spending. In PDS's fiscal year 2008 budget request, 77 percent is allocated to personnel and related benefit costs (\$25,295,000 out of \$32,710,000). Of the \$7,415,000 budgeted for non-personnel budget costs, approximately 95 percent consists of fixed costs (e.g., rent, utilities, payroll and financial services, equipment maintenance and licensing, litigation costs). PDS has no capital expenditures and spends relatively little on training and conferences, outside travel, and library materials. Reductions in litigation expenditures impact the quality of the representation provided. Reductions in the already small non-lawyer professional staff impact PDS's ability to manage the organization efficiently and effectively. PDS cannot, as many agencies can, detail individuals from other divisions to fill the gap. Reductions in front line staff (e.g., lawyers, investigators) lower the number of cases PDS can manage and simply shift the burden for supplying these constitutionally mandated services to the court's Criminal Justice Act budget. Of the approximately 110 lawyers at PDS, only six do not handle any individual cases. All supervisors, most division chiefs, and even some of the executive staff handle cases along with their supervisory and administrative responsibilities.

As detailed below in the accomplishments section, PDS plays a critical role in ensuring that all persons in the District of Columbia criminal courts receive due process. Failure to provide this fundamental right undermines the public's confidence in the criminal justice system and leads to wrongful convictions. While PDS's budget is a fraction of the cost of the entire criminal justice system in the District of Columbia, the high quality of PDS's performance is recognized by all the participants in the criminal justice system. The District of Columbia Court of Appeals and the Superior Court for the District of Columbia not only recognize this performance;⁷ they rely on it in countless serious cases. Diminishing PDS's capacity to provide representation to those who cannot afford counsel would diminish justice in the District of Columbia.

FISCAL YEAR 2006 ACCOMPLISHMENTS

As in previous years, PDS devoted substantial resources toward the majority of the most serious cases filed in the Superior Court's Criminal Division. In fiscal year 2006, PDS was assigned to 77 percent of the Felony One cases and to 65 percent of the Accelerated Felony Trial Court (AFTC) cases. Felony One cases include all homicides, and AFTC cases include all while-armed offenses that carry potential life sentences and are to be tried within 100 days. In another of PDS's key practice areas, mental health matters, PDS was appointed to 63 percent of the involuntary commitment cases filed in the District of Columbia.

As part of its long-term human capital strategy, PDS has engaged the services of a consultant to assist in evaluating PDS's compensation and performance evaluation practices with the goal of maintaining the current culture of excellence and collaboration while updating and expanding the options available to PDS managers and improving the link between compensation and individual performance. Pursuant to this process, PDS laid the groundwork for adopting an improved salary scale for all PDS employees. Also, PDS has successfully transitioned to working with a new payroll service provider. The conversion has vastly improved record keeping. In addition, PDS has conducted two first-ever surveys—one survey of clients and one of CJA attorneys—in support of PDS's strategic plan and annual performance plan.

GENERAL PROGRAM ACCOMPLISHMENTS

Collaborative Work

While well-respected and widely known for zealously advocating on behalf of clients in the criminal justice system's adversarial process, PDS also works closely with criminal justice agencies and the courts to make the criminal justice system function more efficiently and fairly.

Collaborative work, essential to an efficient and fair criminal justice system, can pose obstacles to a legal entity such as PDS because PDS must always be mindful of its professional obligation to individual clients. PDS cannot waive any current or future client's right to assert a particular position or challenge a procedure. This can be frustrating to criminal justice agencies that are not similarly constrained. In addition, PDS's collaboration is often with traditional adversaries that view PDS with

⁷ Just recently, a senior judge on the D.C. Court of Appeals commented at the close of an oral argument that a junior PDS attorney's rebuttal argument was the best that the senior judge had ever heard.

suspicion. Nonetheless, PDS continues to collaborate, producing both large and small changes that improve the criminal justice system.

“Safe Surrender” Warrant Resolution Program.—During the past fiscal year, PDS has worked with a number of District of Columbia criminal justice agencies, both local and federal, to plan for the institution of the “Safe Surrender” program—a program that encourages individuals with outstanding arrest warrants and bench warrants to turn themselves in exchange for favorable consideration by the court. Initiated by the U.S. Marshals Service in Ohio to minimize the danger to law enforcement officers of locating and arresting these individuals, the program limits participation to those with less serious charges. The program collaborates with the faith-based community by obtaining the permission of a local church to use its facility as the site for implementation.

Health Care Decisions for People with Mental Retardation or Mental Illness.—In fiscal year 2006, PDS led an effort to bring together the D.C. Council, the Office of the Mayor, the Office of the Attorney General, and a number of non-governmental organizations to improve the District’s approach to substituted decision-making on behalf of persons without family support who lack the capacity to make their own health care decisions. PDS has represented many clients in the criminal justice system, in the juvenile delinquency system, and in the mental health system who were incapable of making medical decisions and who had no family. As a result, PDS has developed some expertise securing medical treatment for these disadvantaged clients. The District’s law, which, for years, had been passed repeatedly on an emergency basis, permitted the District to make health care decisions for individuals with mental retardation, without regard to the individual’s capacity to make those decisions. The District had proposed creation of a complicated and resource-intensive process that required the development of a panel to determine the capacity of a person with mental retardation to make urgent health care decisions and then to decide on behalf of anyone found incapacitated, whether or not to consent to the urgent medical procedure.⁸ Based on the experiences of PDS lawyers working on behalf of clients with mental retardation and clients with mental illnesses, PDS knew this approach would be unwieldy and would compromise the health and the decision-making rights of PDS’s clients. PDS proposed, and the group adopted, legislation modifying the Health-Care Decisions Act, the laws governing the provision of services to people with mental retardation, and the guardianship laws to create an expedited process for the courts to appoint a temporary and limited guardian to address medical decisions in appropriate cases where a person has been deemed incapacitated under the Health-Care Decisions Act. Enactment of this legislation on a temporary basis late last fall has streamlined and improved the decision-making in urgent and routine medical treatment for some of the District’s most vulnerable residents.

Other Program Accomplishments

PDS engaged in a number of activities during the past fiscal year that had significant implications for individual clients or that improved the overall administration of justice.

Individual Clients

The core work of PDS is the representation of individual clients facing a loss of liberty. The criminal justice system is premised on an adversarial system, and PDS has able adversaries in the District’s Attorney General’s Office and the United States Attorney’s Office for the District of Columbia. A fair criminal justice system depends on having all components (judges, government, and defense) fulfill their respective roles. PDS plays a pivotal part in ensuring that all cases, whether they result in pleas or trials, involve comprehensive investigation and thorough consultation with the client, and that the trials constitute a full and fair airing of reliable evidence. As it has every year since its inception, PDS won many trials in fiscal year 2006, fought a forceful fight in others, and found resolution prior to trial for many clients. Whatever the outcome, PDS’s goal and achievement for each client was competent, quality representation.

All of these cases and their outcomes are far too varied and numerous to recount here, and the ethical rules that protect all clients’ confidences, regardless of their economic circumstances, preclude PDS from providing detailed examples. Instead, the following cases, absent identifying information, are a small sample of how competent, quality representation can change lives.

Unlawful Detention.—In a case of mistaken identity, PDS obtained the release of a man who was unlawfully held at the D.C. Jail for two weeks for an offense he

⁸ Emergency medical situations already have streamlined procedures in place.

did not commit. The Community Defender Division (CDD) intervened to convince officials at the D.C. Jail and at the U.S. Marshals Service to release the client. The client had been detained by Maryland police authorities during a routine traffic stop. The police conducted a computer records check which revealed that a warrant had been issued in the District for someone with the same name as the client who had reportedly escaped from a halfway house in 2004. The client was arrested in Maryland and shortly thereafter was transported by the U.S. Marshals Service to the D.C. Jail, where he waited to be returned to the custody of the Bureau of Prisons because of his alleged abscondance from Hope Village.

The client explained to the police, to the U.S. Marshals Service, and, eventually, to D.C. Jail officials that although he had served time in a Federal Bureau of Prisons facility, he had never been placed in a halfway house before, and he insisted that he had not been re-arrested since his release in 2005. Furthermore, the client told officials that someone had earlier stolen his ID card and that he had been the subject of a case of mistaken identity in the past. Even after the face of the person who had actually absconded from the halfway house appeared on the D.C. Department of Corrections computer database, D.C. Jail staff simply exchanged the client's picture with the one already in the database, effectively placing a charge on his record that he did not commit.

The client's mother complained to PDS's CDD staff, frustrated because for two weeks, she had been trying to convince D.C. Jail officials that they were holding the wrong man. CDD staff interviewed the client at the jail and performed a records search. CDD staff determined that the client could not have been the person who had absconded in 2004 because the client had been serving his Federal Bureau of Prisons sentence at the time; the client was released from the D.C. Jail within 24 hours of when CDD staff began investigating the matter.

Elderly Veteran.—A 70-year-old veteran was charged with losing contact with his parole officer and faced a parole revocation hearing as a result. The client, who has no family, is partially blind and partially deaf, has severe and numerous disabling medical conditions, and cannot walk unassisted. During one of his hospital stays, his rooming house was sold. When he was released, he had no place to stay and would sleep wherever he could. Homeless and ailing, he stopped going to meet with his parole officer who then issued a parole violation warrant for the client's arrest. He was held at the D.C. Jail pending his parole revocation hearing. Before his hearing, his PDS attorney and program developer collected volumes of medical records from the Veterans Administration, made appropriate referrals, and set up services that would allow him to function independently in the community. PDS even arranged for transportation to his new residence in the event that the U.S. Parole Commission decided to release him. After his hearing, not only was the client released, his case was closed—implicit acknowledgment that the client's and the community's interests were better served by the services PDS arranged than by those that the U.S. Parole Commission could provide.

Disabled Children.—A trial attorney's newly arrested 13-year-old client did not know his mother's phone number (or the phone number for any relative whatsoever), or even how to spell his mother's name. He could not give any contact information to the police or to the court besides an address. The client's mother had only a cell phone, and no home phone. On the morning of the client's first appearance in juvenile court, the trial attorney called another PDS trial attorney at home to ask her if she could think of a way to get in touch with the client's mother. The second attorney volunteered to drive to the mother's house and see if she was home, and to bring her down to court if she was.

The initial (release) hearing started, and the court's Social Services department and the prosecutor both recommended placing the client in secure detention, in part because of the lack of information about the client's social history and the fact that no parent was present. The client was crying and asking his attorney where his mother was. The court refused the trial attorney's request for a very short delay to allow her to find the client's mother. Because of the client's age, the court was disbelieving when the trial attorney explained that the client did not know his mother's phone number. During the hearing, the client's mother entered the courtroom. She had been worried all night because she had no idea where he was. She had been about to call the police when the second PDS trial attorney came to the house looking for her. The mother was able to explain to the court that her son is severely limited mentally and that he had trouble remembering her phone number despite her repeated efforts to teach him. The court released the client to his mother.

Discovery Litigation.—Over the past fiscal year, PDS lawyers have continued to monitor the government’s compliance with its obligations to disclose *Brady*⁹ evidence—evidence that is favorable for or tends to exculpate the client. What constitutes *Brady* evidence and when that evidence must be disclosed to the defense are strenuously disputed issues in Superior Court. PDS is at the forefront of this litigation, which has produced success at the appellate court level and a number of acquittals and dismissals at the trial court level. PDS has filed dozens of pleadings in trial cases over the past year and was asked to file a “friend of the court” brief in an appellate case addressing *Brady* and the government’s conduct in a specific case. The appellate decision resulted in further trial court proceedings concerning what exactly was suppressed by the government and whether its suppression affected the outcome of the trial; other trial level litigation has resulted in a number of acquittals and, on occasion, determinations by the government that the charges should be dismissed.

Appellate Division

The Appellate Division’s appellate litigation has an impact throughout the District’s criminal justice system as decisions in its cases often establish or clarify the standards trial court judges and litigants must follow in criminal and juvenile cases. The complex and novel legal issues the Division is called upon to address are handled by its experienced and talented attorneys.

Changing the Law.—In fiscal year 2006, in *Wilson-Bey v. United States*, the D.C. Court of Appeals issued a landmark unanimous en banc (full court) decision changing the standard for accomplice liability in the District of Columbia and bringing it in line with the standard used in the federal courts and most states. In the District of Columbia, since the late 1970s, the Court’s decisions have approved jury instructions stating that an accomplice is legally responsible for the “natural and probable consequences” of the crime in which he intentionally participates. Since the early 1980s, PDS has argued in several cases that the Constitution requires that the government should have to prove the same intent element for an offense whether a defendant is charged as a principal or an accomplice. As PDS has argued, it is precisely when the defendant is merely an accomplice and did not commit the crime that the intent requirement becomes all the more important under traditional norms of criminal liability. In *Wilson-Bey*, PDS made this same argument as amicus curiae (friend of the court). The Court agreed with PDS and, in a scholarly 50-page opinion, unanimously held that the natural and probable consequences language erroneously omits the intent element of the offense charged, that the error is of constitutional magnitude, and that the government must prove all the elements of the offense, including premeditation, deliberation, and intent.

Enforcing Constitutional Protections.—PDS recently argued successfully to the D.C. Court of Appeals in an amicus curiae (friend of the court) brief that there is no “expert witness” exception to the Confrontation Clause. In December 2006, the Court in *Thomas v. United States*¹⁰ held that a Drug Enforcement Agency (DEA) chemist’s certified hearsay report is a paradigmatic “testimonial” document that clearly falls within the protections of the Sixth Amendment Confrontation Clause under the Supreme Court’s watershed decisions in *Crawford v. Washington*¹¹ and *Davis v. Washington*.¹² In a lengthy and meticulously reasoned opinion, the Court traced the right of confrontation to its common-law roots and to the Framers’ disdain for “trial by affidavit,” the “primary evil” targeted by the Confrontation Clause. Given that the DEA chemist’s certificate is an affidavit-like document produced in anticipation of its use in a criminal trial and is relied upon by the government to prove an essential element of the offense, the Court “agree[d] with [PDS] that ‘it is difficult to imagine a statement more clearly testimonial.’” The Court also held that a defendant’s ability to subpoena the chemist and call him as a hostile witness in the defense case does not satisfy the Confrontation Clause under *Crawford*. The Court again relied on PDS’s brief, reasoning that, “[i]f the defendant exercises his constitutional right to put the government to its proof and not put on a defense, the prosecution evidence—what [PDS] aptly calls ‘the misleadingly pristine testimonial hearsay of absent witnesses’”—may appear deceptively probative in the absence of cross-examination. Across the country, courts are considering the admissibility of various “expert reports” without live testimony. The *Thomas* opinion will undoubt-

⁹*Brady v. Maryland*, 373 U.S. 83 (1963).

¹⁰*Thomas v. United States*, 914 A. 2d 1 (2006).

¹¹*Crawford v. Washington*, 541 U.S. 36 (2004).

¹²*Davis v. Washington*, 126 S. Ct. 2266 (2006).

edly be highly influential, both because it so thoroughly addresses the issue and because the Court is so well-regarded nationally.

Protecting Society's Interest in a Fair Trial.—In *United States v. Mickens*, PDS secured a remand from the D.C. Court of Appeals after a trial judge failed to interview a juror who sent a note during deliberations stating that the deliberations had deteriorated and that, as a result, he was unable to render a fair verdict. The Court of Appeals remanded the record to the trial judge so that he could do what he should have done before the verdict was taken and speak with the juror. At a hearing, the juror told the trial judge that the guilty verdict had been forced. The juror said he had agreed to a guilty verdict only because the foreperson had threatened him with physical violence and because the trial judge had ignored his pleas for help. In the end, the government dismissed the criminal charges, and PDS righted an injustice the juror had himself attempted to right some two years earlier.

Protecting the Constitutional Right to Present a Defense.—The Appellate Division convinced the D.C. Court of Appeals that the trial court was wrong for refusing to admit testimony of a defense witness about an excited utterance made by the client. The client, after shooting a would-be robber in self defense, ran to his friend's house, "shaking," "hysterical," "scared," and "terrified." He told his friend that someone had tried to rob him. The trial court ruled that the friend couldn't testify about this statement because, as the defendant's friend, he was too interested in the case.

The Court of Appeals held that the trial court was wrong in declaring the friend unreliable and barring him from testifying, ruling that the trial court made it impossible for the defense to present evidence related to the client's actions in response to the attack. The Court held that the client was thus prevented from presenting evidence crucial to his case, reversed the decision, and remanded the case to the trial court.

Special Litigation Division

The Special Litigation Division litigates systemic issues in the District of Columbia criminal justice system before every court in the District of Columbia—the Superior Court and Court of Appeals in the local system, and the District Court, the Court of Appeals, and the Supreme Court in the federal system. These are some of the highlights of SLD's fiscal year 2006 litigation:

Incarcerated Young Adults.—In *J.C., et al. v. Vance, et al.*, the Special Litigation Division seeks to compel the District of Columbia to provide special education services to eligible youth incarcerated in the D.C. Jail and the Central Treatment Facility (CTF). A final settlement agreement was filed in federal district court at the beginning of the year. This settlement was effectively a total victory for plaintiffs—the District agreed to bring its special education program into compliance with federal law. The first phase of the settlement, which called for the District to draft a set of policies and procedures addressing all aspects of the program (including program funding, infrastructure, staffing, curriculum, student screening and evaluation, and interagency collaboration) is now complete, and the parties have moved on to the implementation phase of the program. The District has a year to fully implement its special education program at the D.C. Jail and CTF. PDS is monitoring the District's efforts to ensure that it honors its commitments.

Incarcerated Children.—PDS has litigated the lawsuit challenging the juvenile detention system in the District, *Jerry M., et al. v. District of Columbia, et al.*, for 21 years, and a resolution of the case continues to appear possible. The lawsuit and the resulting consent decree focus on the conditions of the juvenile detention facilities and on the treatment and rehabilitation provided to youths at the facilities to reduce their chances of re-offending and to increase their chances of becoming productive members of the community. Three years ago, PDS's Special Litigation Division asked the court to appoint a receiver to oversee the District's Youth Services Administration (now the Department of Youth Rehabilitation Services (DYRS)) until the consent decree's mandates could be met. While the request was pending, the parties agreed to the appointment of a Special Arbiter in lieu of a receiver to bring the District into compliance by assisting the parties in creating a work plan to implement the consent decree. SLD and the District are now well on their way toward implementing a comprehensive work plan to address the systemic issues that have plagued the District's juvenile justice system for years. In the last two years since the Special Arbiter was appointed, the lawsuit has led to:

—*New Oak Hill Youth Center.*—Plaintiffs and defendants worked with the D.C. Council to introduce legislation that resulted in an emergency bill to fast-track construction of the new facility. Plaintiffs and DYRS are continuing to work with the architects, who are national experts in the construction of juvenile facilities, in addition to consultants from Missouri (see below), and it appears that the facility that will replace the current youth secure detention facility will not

only be a great improvement, but may be the premier juvenile facility in the nation. It is set to open in April 2008.

- Missouri Youth Services Institute.*—Plaintiffs and the Special Arbiter have worked with DYRS to hire consultants from the Missouri Youth Services Institute (MYSI) to implement reform at Oak Hill even before the new facility opens by equipping its staff with the training and tools to function daily as counselors, as opposed to correctional officers, and to operate well-run treatment programs. MYSI is comprised of former staffers who led what is widely regarded as the nation's model juvenile institutional reform effort in Missouri. DYRS has now opened four "Missouri-style" units at Oak Hill, and the physical plant and the services for youth at Oak Hill have dramatically improved. Through work with the court, the Office of the Attorney General, and the MYSI staff, DYRS has now successfully reduced the detained and committed populations such that there are only approximately 70 youth at Oak Hill (down from 260 in December 2004), all of whom are committed. The approximately 80 detained youth are all currently housed at the YSC (see below).
- Youth Services Center.*—Plaintiffs and the Special Arbiter also secured the hiring of Earl Dunlap, founder and former Executive Director of the National Juvenile Detention Association (NJDA), to work with staff at the Youth Services Center to improve safety, security, and operations. Mr. Dunlap and staff from NJDA are playing a vital role in the efforts to equip YSC staff with the skill set necessary to operate a safe and humane juvenile detention center.
- Evening Reporting Centers.*—Plaintiffs have worked with DYRS to open Evening Reporting Centers (ERCs) as alternatives to detention, which has resulted in significantly reducing the population of detained children. DYRS currently has two ERCs in operation, one located in Ward 4 (serving youth from Wards 1, 2, and 4) and one in Ward 8 (serving youth from Wards 6, 7, and 8). ERCs are a very intensive form of community placement, providing six hours of daily, face-to-face supervision by adults for the youths ordered into the facilities.
- Expert Services.*—Plaintiffs and the Special Arbiter have worked this past year on improving the quality-of-life and safety issues at the facilities, and have worked with top experts to prepare baseline reports on issues such as fire safety, housekeeping, key control, and mental health. These have turned into corrective action plans that have been filed with the court and have been models for implementing serious reforms at the institution. The parties are now awaiting the final baseline report for medical services.
- Educational Initiatives.*—With help from the plaintiffs and the Special Arbiter, DYRS successfully led a campaign to establish an alternative education model to replace the traditional one provided by D.C. Public Schools (DCPS). The Special Arbiter helped facilitate communications between DYRS and DCPS that helped produce an agreement for the replacement of the DCPS model. The new model is designed specifically for youth in secure custody and will include innovative and proven delivery models by providers with knowledge and experience in working with at-risk youth in the juvenile justice system. RFPs are currently being reviewed, and a charter school will be taking over the Oak Hill school in the fall of 2007.

Community Defender Division

The Community Defender Division assists children and adults who are confined in correctional facilities or who are returning to their communities after periods of incarceration.

Expungement Summit.—In fiscal year 2006, PDS brought together 21 service providers for its second Expungement Summit.¹³ Modeled after a successful program in Chicago, the Summit offered assistance to individuals with criminal records, determining whether the individuals might be successful in seeking to seal their arrest records and providing them with social services resources. Over 600 individuals participated, receiving assistance with job searches; interview skills; referrals for re-

¹³The service providers included Job Corps (Dept. of Labor); Jobs Partnership of Greater Washington; A-Men (Anacostia Men's Employment Network); Housing Counseling Services; EXCEL Institute; Neighborhood Legal Services Program (D.C.); D.C. Employment Justice Center; Washington Legal Clinic for the Homeless; the Better Way Program (Pilgrim Rest Baptist Church); Concerned Citizens on Alcohol and Drug Abuse (CCADA); D.C. Department of Employment Services (DOES) (Mobile Van); Samaritan Inns Intensive Recovery Program; D.C. Central Kitchen/Training Program; Healthy Babies Project (Mobile Van); D.C. Chartered Health Plan; Opportunities Industrialization Center for D.C.; Efforts; Court Services and Offender Supervision Agency; YouthBuild PCS; D.C. Prisoners Legal Services Project, Inc.; the Children's Law Center; D.C. Law Students in Court; and the University of the District of Columbia David A. Clarke School of Law.

entry assistance, including the Work Opportunity Tax Credit; the Federal Bonding Program; disability benefits; public housing opportunities; and substance abuse treatment referrals. PDS not only collaborated with service providers, but also coordinated with the D.C. Council to create space at the Summit for the D.C. Council to hold a community-based hearing on proposed expungement legislation at the same location and same time as the Summit. PDS will continue to lead this collaborative effort to promote housing, gainful employment, and sound health care for ex-offenders returning to the District of Columbia.

Re-entry Programs.—In fiscal year 2006, the Community Re-entry Program sponsored a day-long conference, “Representing Combat Veterans in the Criminal Justice System,” on providing assistance to veterans. The conference, which placed a special emphasis on veterans of the U.S.-Iraq war who are charged with criminal offenses, focused on the defenses and sentencing options available to them, and on the resources that are available for the health, employment, and education problems most encountered by veterans.

Parole Division

The Parole Division provides required representation to parolees facing revocation before the United States Parole Commission.¹⁴ This Division represents nearly 100 percent of the D.C. Code offenders facing parole revocation. Consistent with that, in fiscal year 2006, PDS handled over 95 percent of parole and supervised release revocations.

Working with the U.S. Justice Department.—PDS’s Parole Division continues to seek out areas of collaboration that will benefit individuals facing parole revocation. Most recently, PDS and the U.S. Department of Justice agreed to engage in ongoing discussions regarding revisions to the statute that governs proceedings before the U.S. Parole Commission. Because of the elimination of parole in the federal system, an increasing majority of the Commission’s work consists of local District of Columbia matters as the number of federal parolees declines steadily. PDS’s goal is to ensure that a new statute sets forth a fair and constitutional process for resolving matters before the Commission.

Training

PDS conducts and participates in numerous training programs throughout the year. The annual Criminal Practice Institute and the Summer Criminal Defender Training Program address the training needs of the court-appointed CJA attorneys and investigators. In fiscal year 2006, PDS attorneys and investigators also taught sessions at many D.C. law schools and other institutions. PDS attorneys were also invited to teach elsewhere locally, including at the D.C. Bar, the National Legal Aid and Defender Association, and at D.C. law firms offering pro bono services in Superior Court cases.

Visiting Chinese Lawyers.—PDS agreed to develop a modified version of its intensive training program for new PDS attorneys and of the accompanying training materials for lawyers visiting PDS from China. For two weeks, PDS provided these attorneys, working through translators, with lectures on criminal defense practice in the United States and with opportunities to participate in practical exercises in PDS’s moot courtroom.

Forensic Science Conference.—In the face of growing evidence that most wrongful convictions are based on erroneous eyewitness identifications, PDS’s 2006 Forensic Science Conference, the fourth such conference, brought the latest social science research and experts in the field to Washington, D.C. The conference provided defense attorneys with the information and tools necessary to properly investigate cases, to guard against erroneous identifications, and to educate jurors and judges about pitfalls surrounding eyewitness identification procedures currently in use by many law enforcement agencies.

Administrative Accomplishments

Relying more extensively on technology, PDS continues to strive to be a model public defender in its administrative operations as it is in its client representation. PDS has created greater links between its payroll and finance operations, and has responded to emphasis from Congress on continuity of operations plans and telecommuting by exploring ways of supporting employees away from their offices. PDS has invested in new technology in the form of both hardware and software that allow key staff to have secure access to electronic files and databases from remote locations. Also, in its ongoing efforts to adopt federal best practices, PDS continues to

¹⁴ The Revitalization Act shifted responsibility for D.C. parole matters from the D.C. Board of Parole to the United States Parole Commission. 28 C.F.R. 2.214(b)(1) and 2.216(f).

incorporate the principles of the Government Performance and Results Act in the management of the office.

Continuity of Operations.—PDS has upgraded its continuity of operations plan to make it more comprehensive and to incorporate the capacity (e.g., Blackberrys and docking stations) PDS has provided to staff to obtain remote access to their case files and to relevant databases. Currently, key managers have access to electronic files and databases from remote locations, and all staff have remote access to electronic mail. PDS will continue to develop the ability to support the technology that provides flexibility in work location and work schedule for all key staff. PDS is also tracking the continuity of operations plans of the various criminal justice agencies that would have to collaborate in the event of a disruption to the criminal justice system as a whole.

Government Performance and Results Act.—Consistent with its strategic plan and annual performance plan, PDS conducted its first-ever client survey and its first-ever survey of CJA attorneys. These surveys are two of several—judicial, PDS employee, social service provider, CJA attorney, and client—that PDS plans to conduct regularly to assess its performance. Our strategic plan calls for the judicial, CJA attorney, and client surveys to be conducted on a staggered triennial schedule.

The client survey was done on a pilot basis to test PDS's ability to locate and communicate with former clients, some of whom have moved and some of whom are incarcerated.¹⁵ The survey consisted of twenty questions that focused on issues such as client perceptions of PDS's attentiveness to clients and preparedness for court. The majority of the clients who responded agreed with statements such as, "I felt my attorney was working hard for me," and "[M]y PDS attorney was prepared to represent me before the D.C. judicial system, and "[T]he PDS office staff treated me with respect and courtesy."

The eleven questions contained in the CJA bar survey related to the bar's assessment of PDS's effectiveness and to the quality and extent of PDS's support of the CJA attorneys. The survey responses reflected the value that the CJA bar places on the training PDS provides, and they identified areas where PDS can better serve those attorneys.

Over 90 percent of the responding CJA attorneys generally agreed that PDS achieves its mission of providing and promoting quality representation to clients, protecting society's interest in the fair administration of justice, and providing helpful and relevant training to CJA attorneys. The survey revealed a definite interest among CJA bar members in having PDS use its website or other communication methods more frequently to provide regular updates on recent changes in criminal law and procedure.

PDS's other performance measures include determining the rate at which clients are released pending their trial or hearing dates. Release is a goal of virtually every PDS client, and having a client in that status improves the staff's ability to prepare the case and represent the client overall. For fiscal year 2006, PDS had a target of having clients released in 65 percent of cases. PDS obtained clients' release in 62 percent of the cases.

In addition, PDS measures the rate at which attorneys have their first substantive visits with their clients after appointment. PDS's expectation is that an attorney will meet with a newly assigned client as soon as possible. Building trust is key to developing a good attorney-client relationship, and meeting with a client right away is a fundamental step toward establishing that trust and creating a positive impression. Early meetings also assist the attorney with investigation, as leads get "colder" with time. While certain legitimate circumstances may interfere with an attorney's ability to see a client as soon as is preferable (e.g., the attorney may be in trial), PDS has nonetheless set a two-day standard for this to occur. For fiscal year 2006, PDS had a target of having these initial meetings in 75 percent of the cases. PDS surpassed that target, achieving initial meetings within two days in 89 percent of the cases.

CONCLUSION

I would like to thank the members of the Subcommittee for your time and attention to these matters. I would be happy to answer any questions the Subcommittee members may have.

Senator DURBIN. Ms. Gist.

¹⁵The difficulty PDS anticipated in surveying this group was confirmed by the fact that more than 50 percent of the surveys were deemed undeliverable to the clients' last known addresses.

STATEMENT OF DEBORAH A. GIST, STATE EDUCATION OFFICER, GOVERNMENT OF THE DISTRICT OF COLUMBIA

Ms. GIST. Good afternoon, Mr. Chairman, subcommittee, staff and guests. I'm Deborah Gist and I serve as the State Education Officer in the District of Columbia. I appreciate this opportunity to testify today on the success of one of our most valued programs in the District of Columbia, the D.C. Tuition Assistance Grant Program, or D.C. TAG.

I'm here to present testimony in support of the President's fiscal year 2008 funding request and budget justifications for the D.C. TAG program. Let me say, for the record, how much Mayor Fenty and our community appreciate the past and continued support of the Senate Appropriations Committee and you, in particular, Mr. Chairman, for the D.C. TAG Program.

The D.C. Tuition Assistance Grant Program deserves to be funded for fiscal year 2008 at the mark established by the President for two reasons. Because the District of Columbia counts on the funding to provide affordable college options to its residents and most importantly because the program is working.

We are increasing the number of college going District residents. Simply put, the D.C. TAG Program levels the playing field by providing District residents with the same opportunities that high school graduates from around the country receive—the ability to pay for college at the in-State or near the in-State tuition rate.

In fiscal year 2006, the State Education Office provided an average TAG award of \$6,393 to more than 4,800 students. In the District of Columbia, graduating seniors have a single option for public higher education, the University of the District of Columbia.

The university is a relatively young institution that celebrated its 30 year anniversary in 2006. While the university educates thousands of students every year, a single State school is not the solution for every student in the District of Columbia who wants to go to college.

In every State in the Nation students are able to choose from among multiple public universities and colleges on multiple campuses. For example, neighboring Maryland has 14 4 year public university campuses and 16 community colleges. State colleges and universities are well known for providing quality public education at an affordable price.

The D.C. Tuition Assistance Grant Program provides this choice for the students in the District of Columbia. By bridging the gap between the in-State and out-of-State tuition rates so that students can attend colleges and universities in other jurisdictions at affordable prices.

The TAG Program provides up to \$10,000 per academic year, up to a lifetime maximum of \$50,000 for District residents who have a high school diploma and start college by the age of 24. Additional options include up to \$2,500 for community colleges, for historically black colleges, and universities—and for private universities in the D.C. metropolitan area.

In 1999, prior to the existence of the D.C. TAG Program, District residents paid an average \$7,890 annually to attend an institution of higher education—compared to a much more favorable national rate of \$3,215 annually.

As you well know Congress, therefore, passed the District of Columbia College Access Act and the D.C. TAG Program has received a great deal of bipartisan support since then. To date, including the current school year, the program has dispersed nearly \$160 million to the benefit of over 11,000 District residents.

Since the inception of the D.C. TAG Program and the 2000/2001 school year, the number of District of Columbia public school students who go on to attend an institution of higher education has doubled. That's a phenomenal achievement for a program that's only in its seventh year.

Some characteristics of D.C. TAG Programs are as follows: 38 percent of D.C. TAG grantees are the first in their family to attend a college or university.

And I'll actually point out that this number has decreased because the more and more students that we're sending to college and their siblings are going as well, it used to be over 50 percent; 68 percent of awards are provided to students with very low or low income levels as defined by the estimated contributions families are expected to make to support their child's educational needs.

The District of Columbia, like other governments across the country, is focused on encouraging as many of its residents as possible to go to college. Recent research suggests that only 28 percent of jobs within the District of Columbia belong to District residents. This in large part is a result of the skills required to attain these jobs. In 2005, for example, 75 percent of new jobs created required at least some postsecondary education.

The D.C. Tuition Assistance Grant Program is a central component of the District's strategy to enhance college access and college degree attainment in the District of Columbia. As a result TAG is changing the way of life for an entire generation of District residents and I would like to ask this distinguished committee to fund the D.C. TAG Program for \$35.1 million for fiscal year 2008.

PREPARED STATEMENT

I appreciate this opportunity and I look forward to answering your questions.

[The statement follows:]

PREPARED STATEMENT OF DEBORAH A. GIST

Good afternoon, Mr. Chairman, members of the Senate Subcommittee on Financial Services and General Government, Committee staff and guests. My name is Deborah Gist and I serve as the State Education Officer in the Executive Office of the Mayor for the District of Columbia. I appreciate the opportunity to testify today on the success of one of our most valued higher education programs in the District of Columbia, the D.C. Tuition Assistance Grant (D.C. TAG or TAG) program. I am here to present testimony in support of the President's fiscal year 2008 funding request and budget justification for the D.C. TAG program. Let me say for the record how much Mayor Fenty appreciates the past and continued support of the U.S. Senate and the Appropriations Committee for the D.C. TAG program.

The D.C. TAG program deserves to be funded for fiscal year 2008 at the mark established by the President for two reasons: because the District of Columbia counts on the funding to provide affordable college options to its residents, and because the program is working to enhance the number of college going District residents. Simply put, the D.C. TAG program levels the playing field by providing District residents with the same opportunity that high school graduates around the country receive, the ability to pay for college at or near the in-state tuition rate. In fiscal year 2006, the State Education Office provided an average TAG award of \$6,393 to more than 4,800 students.

In the District of Columbia, graduating seniors have a single option for public higher education—the University of the District of Columbia. UDC is a relatively young institution that celebrated its 30th anniversary in 2006. While UDC has done an admirable job of educating thousands of students every year, a single state school is not the solution for every student in the District of Columbia who wants to go to college.

In every state in the nation, students have the option to attend multiple public universities and colleges on multiple campuses. For example, neighboring Maryland has 14 four-year public university campuses and 16 community colleges. State colleges and universities are well known for providing quality education at an affordable price. The D.C. Tuition Assistance Grant program provides greater opportunities for students in the District of Columbia to obtain a college education by bridging the gap between the in-state and out-of-state tuition rate so that students can attend colleges and universities in other jurisdictions at affordable prices. The TAG program provides up to \$10,000 per academic year—up to a lifetime maximum of \$50,000, for District residents who have a high school diploma and start college by the age of 24. Additional options include:

- Up to \$2,500 per academic year to bridge the gap between in-state and out-of-state tuition at a community college;
- Up to \$2,500 per academic year to attend a historically-black college or university anywhere in the nation; and
- Up to \$2,500 per academic year to attend a private university in the Washington, DC metropolitan area.

In 1999, prior to the existence of the D.C. TAG program, District residents paid an average of \$7,890 annually to attend an institution of higher education compared to a much more favorable national tuition average of \$3,215 annually. As such, Congress passed the District of Columbia College Access Act (Public Law 106–98) at the urging of the District's Congressional Delegate Eleanor Holmes Norton. It is important to note that the D.C. TAG program has received a great deal of bipartisan support since its inception. To date, including the current school year, the program has disbursed nearly \$160 million for the benefit of over 11,000 D.C. residents.

Since the inception of the D.C. TAG program in the 2000–2001 school year, the number of District of Columbia public school students that go on to attend an institution of higher education has doubled. That's a phenomenal achievement for a program that's only in its seventh year. The characteristics of TAG recipients are as follows:

- 38 percent of D.C. TAG grantees are the first in their family to attend a college or university;
- 67 percent of tuition awards are provided to District of Columbia public school students;
- 79 percent of D.C. TAG students attend public colleges and universities upon receiving a tuition award;
- over 90 percent of awardees attend college full-time; and
- 68 percent of awards are provided to students with very low or low income levels as defined by the estimated contribution families are expected to make to support their child's educational needs.

In an effort to increase the graduation rates of students receiving the tuition assistance grant, the State Education Office is actively communicating with partner colleges and universities to ensure that D.C. TAG grantees are receiving the appropriate retention and academic services needed to support our students as they work to earn a college degree.

Numbers alone, however, fail to tell the story of the D.C. TAG program's success. This is one of those occasions where our grantees or their families tell their own stories far better than I ever could. So I will share with you the words of Wezlynn Davis, whose daughter Niya graduated from North Carolina Central University last year. Ms. Davis writes,

“We, the Davis family, have been truly blessed by the District of Columbia Tuition Assistance Program. I don't know what we would have done without it. . . . I hope that the program continues in the future and the process won't change much because I have another youngster who will be attending college. He wants to be a culinary chef and has his mind set on it. . . . Thank you for all you and others are doing to make sure our black children succeed. It gives them self worth and a sense of pride knowing that they can afford to attend college. I know my daughter is happy. She graduated on May 6, 2006, the first . . . of my children to do that. I am ecstatic.”

This is just one example of success as a result of the D.C. TAG program.

The Government of the District of Columbia, like other governments across the country, is focused on encouraging as many of its students as possible to go to college. Recent research suggests that only 28 percent of jobs in the District of Columbia belong to Washington, DC residents. This is in large part a result of the skills required to obtain these jobs.¹ In 2005 for example, 75 percent of the new jobs created in the District of Columbia required at least some post secondary education.² In addition, the Washington, DC metropolitan region has one of the highest college degree attainment rates in the country with over 42 percent of the region's residents having at least a bachelor's degree and 20 percent having graduate degrees.³ The District's students have to be able to successfully compete for jobs in this highly educated environment. The D.C. Tuition Assistance Grant is a central component of the District's strategy to enhance college access and college degree attainment in the District of Columbia.

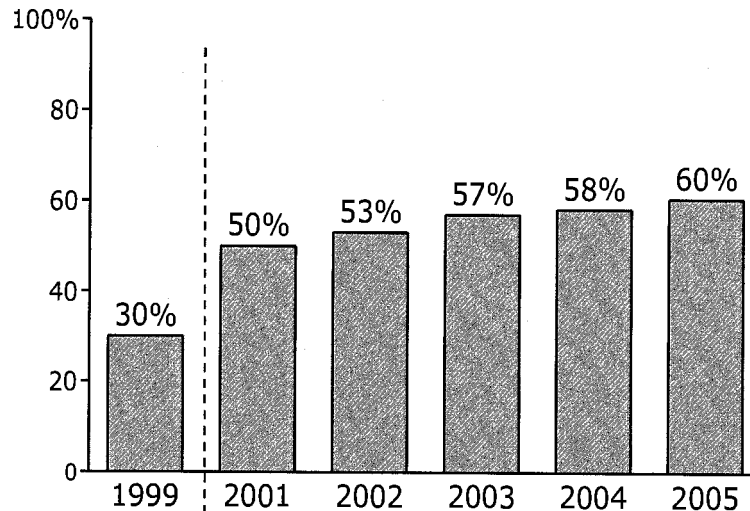
As a result of the Tuition Assistance Grant, the way of life is changing for an entire generation of young people, and I would like to call upon this distinguished committee to re-authorize D.C. TAG once again for fiscal year 2008 at the funding level requested by the President.

I appreciate the opportunity to testify today, and I look forward to answering your questions.

ATTACHMENT A

College enrollment of DCPS graduates has doubled since DC-TAG was launched

Enrollment rate, 12 months after high school graduation
(% of graduates)



Note: Excludes alternative school graduates; enrollment after 12-months in college
Source: DC-CAP internal data; Fannie Mae study

¹ Fuller, Stephen S., Ph.D., *The District of Columbia Chamber of Commerce State of the Business Report 2006*, D.C. Chamber of Commerce, February 2006.

² Ibid.

³ Greater Washington Initiative, Internet, http://www.greaterwashington.org/pdf/RR_2006.pdf, Accessed 29 March 2007, p. 12.

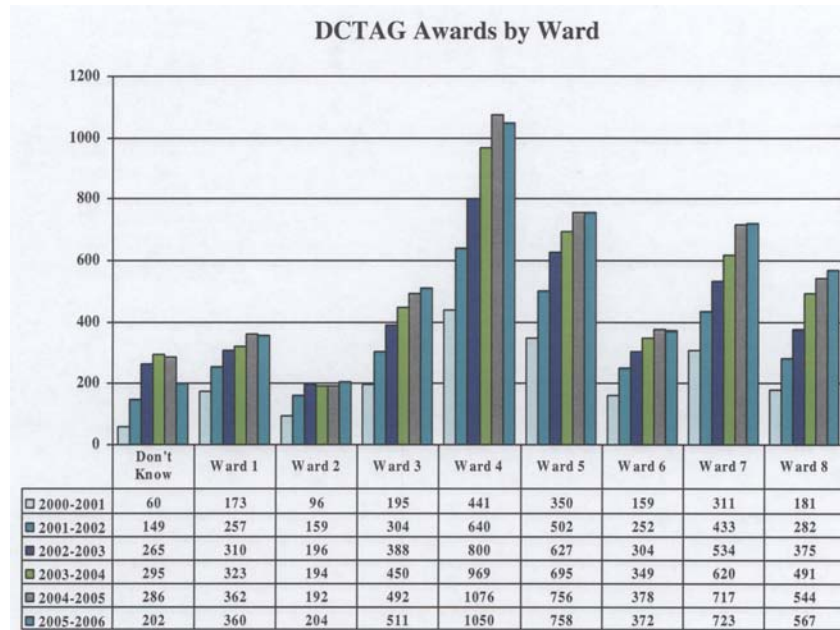
ATTACHMENT B.—NUMBER OF AWARD RECIPIENTS

State	2000–2001		2001–2002		2002–2003		2003–2004		2004–2005		2005–2006		Total	Increase 2000–06
	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private		
Alabama	2	.....	8	1	9	4	16	5	10	10	10	12	87	+20
Arkansas	1	.....	2	.....	2	.....	2	.....	2	.....	1	.....	10	.....
Arizona	7	.....	15	.....	16	.....	17	.....	20	.....	16	.....	91	+9
California	14	.....	29	.....	24	.....	32	.....	31	.....	35	.....	165	+21
Colorado	8	.....	19	.....	27	.....	35	.....	40	.....	39	.....	168	+31
Connecticut	1	.....	3	.....	3	.....	5	.....	3	.....	5	.....	20	+4
Delaware	65	.....	112	.....	134	.....	135	.....	155	.....	171	.....	772	+106
District of Columbia	.....	313	.....	451	.....	585	.....	584	.....	592	.....	506	2,525	+193
Florida	25	.....	44	9	67	14	84	21	101	19	108	21	513	+104
Georgia	5	.....	10	29	11	65	18	74	19	79	26	73	409	+94
Hawaii	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	1	.....	3	+1
Idaho	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	.....
Iowa	8	.....	7	.....	.....	.....	1	.....	.....	.....	.....	.....	49	.....
Illinois	4	.....	2	.....	11	.....	8	.....	8	.....	7	.....	16	.....
Indiana	3	.....	10	.....	2	.....	3	.....	3	.....	2	.....	100	+26
Kansas	1	.....	1	.....	14	.....	19	.....	25	.....	29	.....	14	+1
Kentucky	2	.....	3	.....	2	.....	4	.....	4	.....	2	.....	26	+8
Louisiana	6	.....	4	.....	4	.....	8	.....	9	.....	10	.....	97	+20
Maine	.....	.....	4	1	5	10	13	15	25	18	12	14	4	+2
Massachusetts	2	.....	1	.....	1	.....	.....	.....	.....	.....	2	.....	4	.....
Maryland	562	17	827	13	11	.....	7	.....	7	.....	11	.....	46	+9
Michigan	26	.....	33	.....	914	31	1,053	27	1,128	13	1,069	18	5,672	+508
Minnesota	4	.....	2	.....	38	.....	57	.....	89	.....	115	.....	358	+89
Missouri	12	.....	2	.....	.....	.....	6	.....	2	.....	1	.....	10	.....
Mississippi	.....	.....	2	.....	6	.....	6	.....	2	.....	3	.....	31	.....
Montana	1	.....	5	.....	6	.....	3	.....	7	.....	4	.....	25	+4
North Carolina	87	.....	163	29	2	.....	4	.....	2	.....	2	.....	12	+1
North Dakota	.....	.....	.....	.....	216	107	346	138	509	161	643	105	2,504	+661
Nebraska	.....	.....	1	.....	2	.....	1	.....	1	.....	1	.....	6	+1
New Hampshire	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	+1
New Jersey	10	.....	2	.....	2	.....	3	.....	4	.....	4	.....	15	+4
New Mexico	2	.....	16	.....	18	.....	17	.....	27	.....	34	.....	122	+24
Nevada	.....	.....	2	.....	2	.....	4	.....	2	.....	3	.....	15	+1
New York	10	.....	17	.....	30	.....	2	.....	2	.....	1	.....	5	.....
Ohio	22	.....	40	1	53	4	39	.....	41	.....	44	.....	181	+34
	.....	.....	.....	.....	.....	.....	63	8	72	6	69	4	342	+51

ATTACHMENT B.—NUMBER OF AWARD RECIPIENTS—Continued

State	2000–2001		2001–2002		2002–2003		2003–2004		2004–2005		2005–2006		Total	Increase 2000–06
	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private	Public	Private		
Oklahoma .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	14	+ 9
Oregon	1	.....	1	.....	4	.....	.....	.....	5	.....	9	.....	14	.....
Pennsylvania	131	.....	186	.....	270	.....	324	.....	335	.....	1	.....	1,595	+218
Rhode Island	1	.....	2	.....	4	.....	3	.....	1	.....	349	.....	12	.....
South Carolina	18	.....	29	2	.....	.....	39	21	41	23	40	23	274	+ 45
Tennessee	13	.....	16	.....	28	10	23	5	26	6	39	6	167	+ 32
Texas	2	.....	7	.....	29	4	23	4	41	1	48	1	156	+ 47
Utah	1	.....	2	.....	23	.....	29	.....	4	.....	4	.....	14	+ 3
Virginia	397	139	599	172	732	151	787	175	734	171	664	144	4,865	+272
Virgin Islands .....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	6	.....	7	+ 6
Vermont	7	.....	7	.....	13	.....	22	.....	30	.....	34	.....	113	+ 27
Washington	3	.....	4	.....	7	.....	11	.....	14	.....	16	.....	55	+ 13
Wisconsin	114	.....	21	.....	33	.....	35	.....	49	.....	64	.....	316	— 50
West Virginia	79	.....	49	.....	61	.....	65	.....	77	.....	80	.....	411	+ 1
Grand Total	1,657	469	2,313	708	2,838	989	3,350	1,073	3,713	1,099	3,836	927	22,430	+ 2,637

ATTACHMENT C



Senator DURBIN. Thank you very much. Judges Washington and King, I direct these questions to you and you can decide between you who will respond.

Budget submissions seek a total of \$179.8 million for capital improvements and the President's recommendation calls for \$52.5 million, that's only about 29 percent of what you say you need. What capital improvement projects would have to be forestalled, delayed, if we're not able to meet your request?

D.C. COURTS CAPITAL REQUEST

Judge WASHINGTON. I think I'll try to handle that one, Mr. Chairman. The facilities master plan that was developed by the courts back in 2002 addresses all of our space needs and depends on our renovating and moving services out of the Moultrie Courthouse into other court buildings. Then we need to restack the Moultrie Courthouse to consolidate the Family Court to make sure all the services are located in the same family friendly location and that we're providing the breadth of services that we have been asked to provide and we, of course, want to provide to our citizens.

A key part of this swing is to get the Court of Appeals out of the building to free up 37,000 square feet. Once the District of Columbia Court of Appeals is moved into the new building, the Superior Court, the trial court, will be able to use that space. In theory, the Superior Court can then restack and move operations into that vacated space and reconfigure the space that is currently where the Family Court is located to consolidate the Family Court.

There are other buildings on our campus that will have to absorb some of the other Moultrie operations. So, ultimately, what the lack of funding ends up doing to us, is delaying all of these projects.

In fact, those projects are then pushed back in time. Projects that are not funded include the Moultrie Courthouse renovation. I spoke about the Moultrie Courthouse renovation and reorganization and the restacking process and there are a number of projects that fall into that category, as you can imagine, when you're trying to reconfigure that space.

In addition we need to move some of our operations, as I said, out of the Moultrie Courthouse into Building C, another building on our campus in order to consolidate our space and make room. That modernization project is not funded and those are the two large capital projects that will impact our ability to finally reconfigure Moultrie into the kind of Family Court and trial court that we want it to be.

So, in essence the delay is a creating this gap between our move, the Court of Appeals move, out of the Moultrie building into the new Court of Appeals building and the opportunity that the Superior Court will have to configure their operations to meet the mandates that have been imposed.

Senator DURBIN. So if you had full funding, what's the time line?

Judge WASHINGTON. If we had full funding, I would.

Senator DURBIN. At your request.

Judge WASHINGTON. Yes. If we had the full funding right now, I would have to turn to our Administrative Services Director. There's a design phase that we have not undergone yet that precedes each of these restackings because we have to have money to do the design phase.

Our best estimate is that if we got the funds today for these projects we would complete the renovations on our campus in 4 years.

Senator DURBIN. And so if you receive the President's recommendation, is that enough money for the design phase of this project?

Judge WASHINGTON. No. The monies that are in the President's recommendation will only cover those costs that are associated with the old courthouse and the emergency electrical repairs.

So, the monies for the design of the reconfigured Moultrie building are not included in the President's recommendation in this budget.

Senator DURBIN. I would like to address the perimeter security questions, and you talked about the need for \$16 million for perimeter security enhancements. Could you tell us a little bit about that?

Judge WASHINGTON. If I can. This is based on a study by the U.S. Marshals Service.

Let me preface this by saying that we've now moved back out onto our campus, through renovation of Building A. We are moving services and courtrooms into that facility, and into the old courthouse in fall 2008, hopefully, maybe the winter 2009.

The need to create a perimeter around all of the campus has increased because we now will have critical operations in every build-

ing. The Marshals Service has determined that in order to protect, not only the courts, but the people who are going to be using our court system, we had to create a perimeter of security. We've done it as part of our master plan for Judiciary Square, a plan that's been approved both by the National Capital Planning Commission and by the Commission of Fine Arts.

It includes security that will protect us from any threat from traffic that may be traveling up and down the public streets or any other attempts to harm the people who work inside the court building.

That also includes perimeter security for the United States Court of Appeals for the Armed Forces, with whom we share space on Judiciary Square.

Senator DURBIN. So the marshals have security responsibilities for the entire campus as opposed to the Federal Protective Service, for example?

Judge WASHINGTON. Yes.

FAMILY COURT

Senator DURBIN. Ok, thank you. Judge King, I didn't mean to misstate your responsibilities earlier, but when we got together it was in establishing the Family Court and there were some projections about caseload and productivity that were made years ago. Can you give me an update on how that's going?

Judge KING. The caseloads have pretty much remained flat and in some cases have gone down a little bit because the city agency, the Child and Family Services Agency, is now not bringing some cases that were automatically sent to court before.

What I can say is that the level of judicial attention, which was very much a discussion at the time of that bill, has gone way up with the result that the cases that are coming in are very strongly supervised and managed in exactly the way that, I think, all of us had in mind at the time of that act. It has given us the strength at the judicial level, the manpower strength, to handle the cases, with the attention and with all of them in the Family Court where they've all been consolidated, now in very much the way that, I think, Congress intended.

Senator DURBIN. Thank you. Mr. Quander, good to see you again. I think we met 5 years ago when I chaired the hearing on your nomination. Thank you for your dedication to public service.

The opening of the final unit of the residential Re-entry and Sanctions Center is conditioned on receipt of funds requested in the 2008 appropriation of \$2.1 million. With that funding you indicate you can meet the particular needs of the female offender population. How are you currently addressing those needs?

Mr. QUANDER. The design of the unit is to take a special segment of the female population that has a chronic history of chronic substance abuse coupled with criminogenic factors that indicate that that offender poses a severe risk to the public.

What we're doing now is we're using the drug treatment option and supervision options that we have currently available, but it's not sufficient to address the needs of this special type of offender. The benefits that the Re-entry and Sanctions Center allows is that

we will have an opportunity for 28 days to really assess—to really prepare that individual for treatment.

It's almost like we are enhancing our investment in substance abuse treatment because a lot of the women have a lot of issues that some of the men don't have, child care issues. Many of the women have been victims of crimes. There's a lot of reasons why they fall victim to substance abuse.

The contract treatment works better if we can provide a road map for the treatment provider as to what some of those underlying issues are. We will stand a better chance of getting those women through the process successfully and united with their families.

So, the Re-Entry and Sanctions Center serves as a much needed bridge, especially for this population that has so many other issues than the men, but there's a tremendous need.

Just yesterday, I was visiting a facility in Northern Virginia that actually houses women and their children. It's a special facility designed to meet their needs with a lot of emphasis in the mental health area, substance abuse, child care. It's a wrap around facility. It's that type of approach that I think will get us the best results as we invest in the future of these offenders because we think that they can make it. We know they can, if they're given the proper support and the RSC will allow us to give that proper support.

Senator DURBIN. How many persons does the Sanctions and Re-entry Center presently serve?

Mr. QUANDER. Now, we have, I believe four floors that are operational. When it's fully operational with the six units, we'll be able to treat at least 1,200 people in the center throughout the course of the full year.

We're anticipating that the next unit to come on line will be the mental health unit and then subject to the funding for 2008, we will bring the women on board.

Senator DURBIN. So, 1,200 for the entire year?

Mr. QUANDER. For the entire year, once we're fully staffed and operational.

Senator DURBIN. Say at this day, what do you think your census or population is today?

Mr. QUANDER. It is probably in the area of about 80.

Senator DURBIN. What portion of those served are newly released parolees?

Mr. QUANDER. The vast majority of the individuals, the males that are in the facility now are newly released parolees. We have four floors that are in operation now.

One of the four floors is a pretrial services floor. Another is a sanctions floor for those individuals who have been in the community but have started to slip—who have started to fall. The beauty of this program is that it allows us to get them before we have to go to court, before we have to do any other type of intervention and bringing in another party.

We can get them back into the center, get them readjusted and get them refocused on their mission and on their purpose. So, it gives us great flexibility without taxing some of our partners before it's really time to bring them in.

Senator DURBIN. What proportion of those you serve present substance abuse problems?

Mr. QUANDER. Seventy percent of the individuals that we see on probation, parole, supervised release, for sentencing agreements or civil protection orders upon entry into supervision are testing positive for substance abuse.

Our population, as we test, at least 51 percent of the individuals that are undergoing consistent testing with the agency, have tested at least once, positive, 51 percent, but at intake it's close to 70 percent.

Senator DURBIN. I think we talk a lot about recidivism and you've been observing a population that is prone to recidivism. What do you think poses the greatest challenge there that we should be considering? Is there one element that clearly needs more attention or more resources?

Mr. QUANDER. It's always a tough question, but if I had to limit it just to one area, I would have to concentrate on the area of substance abuse. The reason I say that is, when you talk about maximizing your resources, the research is very clear. There is no dispute anymore, but that substance abuse treatment really works.

It has an impact on reducing crime. It has an impact on reducing those individuals who are in the criminal justice system, but it also has an impact, as we spoke earlier about the women, because women have children and if they have children and if the mothers are using, they're not providing the type of supervision.

So, those children are essentially guaranteed to come into the criminal justice system. If we don't address the problem—and so that would be the one area that—if I had to limit it to just one.

I think that there should be additional attention and resources, and I think you get the best return on your investment if we go in that direction.

Senator DURBIN. Your top priority reported here is in reducing caseload ratios for community supervision officers and I believe this should be replicated if it could be with pretrial services agencies.

Mr. QUANDER. Yes.

Senator DURBIN. You stress an additional \$1.6 million and nine FTEs will enable you to lower your PSA officer ratio to 75 to 1. How does that compare to other jurisdictions in the region?

Mr. QUANDER. Actually, if we received what is requested in the President's budget, that would be a tremendous step in the right direction and will allow us to meet our goals. But it is still higher than some of the surrounding jurisdictions that have a lower case load.

It is manageable. It was extremely high. We can work with the 75 to 1 ratio, but it is higher still than some of the surrounding jurisdictions.

Senator DURBIN. Give me a comparison number, pick it from the sister jurisdiction as to what the ratio number might be.

Mr. QUANDER. 65 to 1 in Montgomery County. I believe in the Norfolk, Virginia area, it's as low as 45 to 1.

Senator DURBIN. Thank you. Ms. Buchanan, how much is a public defender paid in the District?

Ms. BUCHANAN. Our salaries are Federal General salaries; attorneys with no experience generally enter at the GS-11, step 1 rate, which is approximately \$55,000, and, based upon seniority they can go up to GS-14, step 10.

Senator DURBIN. And the grade 14?

Ms. BUCHANAN. Very few staff attorneys remain at PDS long enough to attain the GS-14, step 10 staff salary which is approximately \$120,000.

Senator DURBIN. What kind of luck do you have in recruiting attorneys for \$55,000 a year?

Ms. BUCHANAN. PDS is special, and employment at PDS is highly sought after; we average approximately 600 applicants for what works out to be six to eight openings per year in PDS's Trial Division, our largest group of lawyers. We hire once a year in the Trial division. We do that because we train the attorneys before they are permitted to handle any cases. Every year, we receive many applications from the top students at the top law schools across the country.

So we have not experienced any problem recruiting highly qualified and motivated candidates. People do not come for the salaries; they come because they're dedicated to PDS's mission and to our clients.

Senator DURBIN. And what's the usual tenure of these public defenders? How long do they stay at the agency?

Ms. BUCHANAN. Staff attorneys' tenure varies widely. We ask for a minimum 3-year commitment, but we have attorneys who have remained at PDS for as long as 14 or 15 years—those are the outliers. I would say that our attorneys stay an average of 5 to 6 years.

Senator DURBIN. I've been trying to pass a bill here, passed it in the Senate Judiciary Committee, for a student loan repayment for State and local prosecutors and defenders.

Ms. BUCHANAN. Yes.

Senator DURBIN. Is this an issue with your new attorneys?

Ms. BUCHANAN. Yes. Many of our attorneys come to PDS saddled with heavy debt loads and continue to work at PDS with these heavy debt loads. We've been intently following your legislation as it would benefit many of our attorneys. The District of Columbia has enacted its own student loan repayment program and we are trying to have our attorneys become eligible for this program.

Senator DURBIN. Are they participating now?

Ms. BUCHANAN. No, right now the D.C. Bar Foundation, which administers the program, has deemed PDS attorneys to be ineligible to receive these benefits primarily because of PDS's quirky status as being neither Federal nor State or district. Because we are federally funded, the D.C. Bar Foundation considers our attorneys ineligible for the program, however, we continue to work with the foundation to change this determination.

Just today, I had another conversation with the foundation about a different rationale for having our attorneys become eligible to participate in that program.

Senator DURBIN. Back in the dark ages when I was a student at Georgetown Law School, I can recall the Defender Program in the District. It enjoyed a great reputation then, but the numbers you

just given me of 600 applicants for six jobs is an amazing indication.

Ms. BUCHANAN. Yes.

Senator DURBIN. Of what a challenging professional opportunity you offer.

Ms. BUCHANAN. PDS is a wonderful place, and there are several of us who have left PDS and returned. I am one. PDS's deputy, Peter Krauthamer, and PDS's general counsel, Julia Leighton, who are here with me, are others. PDS is a very special place. It's hard to leave and it's wonderful coming back. I have no regrets.

Senator DURBIN. Great, thank you.

Ms. BUCHANAN. Thank you.

Senator DURBIN. Ms. Gist, if you take a look at the national average of college graduation for low income minority students, it's 47 percent and if you take a look at the D.C. TAG experience, the 2000/2001 freshman class, 38 percent graduated from college. In the next year D.C. TAG, 2001/2002, 36 percent graduated. Why do you think there's that disparity?

Ms. GIST. Well part of the reason is that the national average that you're referring to is based on a 6-year graduation rate.

And actually I can update you with some new numbers that we have based on more students from the cohorts that we have information about who's graduated.

So, just as an example from the 2000/2001 cohort, we have a 46-percent graduation rate. So we were.

Senator DURBIN. So, its 6 year to 6 year, is that what you're saying?

Ms. GIST. Well, it's kind of hard for us to compare year to year, but it's definitely not more than 6 years because it hasn't been 6 years, so, less than 6 years.

We now know that it's 46 percent for that cohort, right now, 41 percent for the 2001/2002 cohort and 40 percent for the 2002/2003 cohort. So, again, compared to a 6-year rate, we feel confident about those graduation rates.

So, I will also say that we have, even with that, I mean, retention has become a very big issue for us. We are a leader in the "Double The Numbers" initiative in the District of Columbia, which is a District-wide effort to focus on college going and college graduation and so, for example, we are the lead on a sector group that's working with college access providers across the District.

Right, exactly that was the report that kicked it off and so retention is a serious priority for us right now.

Senator DURBIN. The process you go through is fairly automatic in terms of qualification for assistance and so I'm wondering if your agency takes a look at any of these factors that lead to information about why 60 percent, or 59 percent, fail to graduate.

I know that you're getting closer to the national average, but the national average is disappointing too.

Ms. GIST. Yes.

Senator DURBIN. So, do you have any anecdotal evidence or personal experience with the students that would give some guidance?

Ms. GIST. Well, we definitely have anecdotal evidence. We have a lot of anecdotal evidence because we work daily with these students and we see what they experience in trying to go to college

and many times they're coming back because of the family situation and they have to come back to work to help support their family, just as an example.

But, I'll also say that we have done a lot to improve our data system and our collection of data. So that we can do a more sophisticated analysis to help us to target services to students, such as—are these financial situations that are occurring, are they social? Do they need psychological/social types of support to help them stay in school and like I said this is a major priority for us right now.

Senator DURBIN. And it goes without saying that those who don't finish college, even with your assistance, may end up carrying a student debt out of that experience even if they don't carry a diploma out of it.

Ms. GIST. That's true and District students unfortunately end up taking a lot of remedial courses their first year and that's something that we're focused on right now, too, is making sure that all of our students are graduating college ready.

Because what we know is that they end up taking remedial courses and so they are paying, essentially, to make up for what they didn't get in K–12 and that's just unacceptable.

So we need to have them graduate from high school, college ready, work ready, and college ready, so that when they hit college, they're earning credit toward graduation from the first day, which right now, most of our students are not doing.

Senator DURBIN. And that's not unique to the District of Columbia. In the State of Illinois, about 50 percent of those admitted to community colleges are not performing at 12th grade level. They spend the first year or two trying to catch up to what they should have learned in high school.

Ms. GIST. Right.

Senator DURBIN. They call themselves college students, but they're really trying to become college students, and paying college tuition in many places to reach that goal.

Is there going to be change in the differential between in-State and out-of-State tuitions at the major schools that you provide students for? Maryland and Virginia, I think account for almost one-half of the students from the District of Columbia. Over the period of this program, has there been a change?

Ms. GIST. Yes, and we've definitely seen the average amount that each student gets per year creeping closer and closer to the cap which is \$10,000 per year. In fact, I believe, I'm not sure if we gave you this chart, but we do have a graphic that shows the increase in the, like I said, it's pretty dramatic if you look at the numbers of students who are now either at the cap or close to the cap; thanks, John.

Senator DURBIN. The \$50,000 cap?

Ms. GIST. Right, well the \$10,000 per year—right—for the maximum. So, for example in 2000/2001, well actually, I'll use the second year because the first year was a bit of an outlier.

But in 2001/2002 school year we had a total of 202 students who were at or above the \$10,000 a year differential and in the past school year, that was 989. So, it has increased and that's due largely to the increases in the costs of tuition.

Senator DURBIN. But what we're focusing on is the difference between in-State and out-of-State college tuition, are we not?

Ms. GIST. Right.

Senator DURBIN. What I'm asking is whether over the years have universities, like the University of Maryland and University of Virginia increased that differential between in-State and out-of-State?

Ms. GIST. The States tend to, when we're increasing tuition, they're more likely to increase the out-of-State tuition than they are the in-State tuition for obvious reasons. So, yes, that difference has increased.

Senator DURBIN. Let me talk about the total amounts of money here. I've been through this before when we created this program and I've watched it.

In the first 4 years of the program, Congress appropriated \$17 million annually. The President sought the same level in fiscal year 2005, but the amount appropriated increased 49 percent to \$25.6 million, and then in 2006, another 30 percent increase to \$33.2 million. The funding you seek this year is double what was provided in each of the first 4 years and it concerns me.

Now, when we put in the appropriations bill to the District of Columbia the following language last year, the subcommittee remains concerned of significant annual funding increases in the brief 2 year span, it was a signal that program costs have the potential of growing well beyond the level at which future Federal funding may be available or sustainable.

So to address this concern, the subcommittee directed the Mayor and the D.C. State Education Office, which I know you're associated with, to work closely with Congress to take steps to institute effective cost contained measures and regular reports to Congress about the effects of these efforts.

The subcommittee directed the District to fully explore non-Federal sources of additional funds to augment Federal investment, so what cost contained measures have you instituted?

Ms. GIST. There are several that we've already instituted and then there are many others that we've studied that are much more dramatic. We hope that we won't have to institute those.

The ones we've already instituted include reducing the total amount for community college reimbursement, eliminating summer school. We no longer pay for summer school, creating 24 years of age as the maximum for participation in this program and establishing 6 years as a maximum amount of time that students have from the first semester they're enrolled to receive funding.

So, those are just a few things we've done already. We've also seen, Senator, the costs, although they have continued to rise, see them begin to level off. While it looks quite dramatic that it's now 35 and it was 17 for several years, the actual growth has been very, very consistent over those years.

The reason that the requested appropriation was staying the same and then increased so dramatically was because there was carryover. So even in the first year, for example, there was about \$20 million in carryover, but then was able to be used and each year we've sort of dipped deeper and deeper into that carryover to today where we have very little carryover.

Senator DURBIN. You said that there were some more strenuous ideas that you hoped you didn't have to turn to. What would they involve?

Ms. GIST. Yes, those are, you know, we could reduce the maximum award from \$10,000, but as I've shared with you already, we have students at the maximum and I'll remind you that what this program does is essentially levels the playing field for our students, so our students still have to come up with a tuition just like any other student in this State and then they also have to come up with their room and board and their books and so forth.

And so, if they're having to come up with their tuition and then they're also having to pay anything that's over the cap which is—right now—\$10,000 then that's just an added burden. So if we had to reduce that to \$8,000 for example, that would affect a significant number of students.

We've also looked at the possibility of making it a needs based program if we had to, make it a merit based program.

But again, this dramatically changes the intention of the program, which was to mimic a State university for the system, the way that other students in other States have and a student in another State, a student doesn't have to be, demonstrate need in order to pay the in-State tuition rate or doesn't have to have a certain grade point average (GPA) to pay the in-State tuition rate.

And I'll also just add quickly that we have seen increases, the District has committed increased funding to other types of programs. So, for example, we overmatched by a 5 to 1 factor, the D.C. LEAP Program which is, of course, as you know, a Federal program, but we match it 5 to 1 in order to provide needs based aid for students and we also, Mayor Fenty has a new program in his budget for this year that's focused toward adults who are attending school, since these programs don't support those residents.

Senator DURBIN. What percentage of the students who are assisted by this program are Pell grant eligible?

Ms. GIST. Sixty-eight percent, as determined by their estimated family contribution are very low or low. I'm not sure how that connects to Pell, but 68 percent.

Senator DURBIN. Have you managed to realize any savings from these changes that you've discussed, cost containment measures?

Ms. GIST. We have, they have not been very dramatic, but we've also, in some cases, like the 6-year cap, the 6-year maximum and the 24 age, those are longer term. Those are savings that we would realize over time.

Senator DURBIN. Now, I want to ask, if I can, if the rest of the panel will bear with me, I don't know how interested you are in the student assistance program, a couple, just maybe one or two more questions.

By our calculations, it appears that you have currently about \$7 million in carryover funds going into fiscal year 2008. Is that about right?

Ms. GIST. Well, we carried over \$9 million from last fiscal year, but we received, as you know, in 2007, we received \$33 million and we carried over \$9 million, but we've already spent about \$40 million. So, again, we use that carryover each year. So, already this year, we've allocated about, almost \$39.5 million for awards.

Senator DURBIN. You seek \$35 million this year, I mean, pardon, the next fiscal year, with a carryover of \$7 million; it appears that \$39 million is the figure that you're going to deal with again.

Ms. GIST. Well, we anticipate having very little carryover this year, about \$3 million. At this point we don't know what our carryover will be from 2007 because 2007 isn't over yet.

Senator DURBIN. Your program is authorized for \$33 million?

Ms. GIST. The program was appropriated in 2007 for \$33 million.

Senator DURBIN. Okay.

Ms. GIST. And that was just due to the continuing resolution. We were actually approved for \$35.1 million.

Senator DURBIN. Okay, well, we'll work on that and we'll work with you on that as well and I thank you all for your patience this evening. You're definitely in overtime and it was nice of you to be patient and wait for me to come by here and I apologize for that.

That's not something I like to see happen to anybody. You're all very busy and have important things to do and this is a new subcommittee and I'm trying to learn a lot of things about new programs, some that I have been familiar with, but I thank you for being here, all of you on the panel.

ADDITIONAL COMMITTEE QUESTIONS

We'll keep the record open for my colleagues. Some questions will be submitted to you, if you could respond to them in a timely basis it will help us complete our work on the appropriations bill.

[The following questions were not asked at the hearing, but were submitted to the District for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO CHIEF JUDGE ERIC T. WASHINGTON

QUESTIONS SUBMITTED BY SENATOR SAM BROWNBACK

DISTRICT OF COLUMBIA COURT OF APPEALS

Question. Would you please explain your request for IT improvements, and what is driving the need for upgrades in that area?

Answer. Industry standards recommend replacement of computer systems (LAN/WAN systems) after five years; the Court of Appeals is overdue in meeting that standard, as it installed its current computer system in 2001. Significant needs of the court that will be met by the acquisition of a new LAN include the following.

Client Workstations/LAN-WAN Servers

The court's operating system is Windows 2000, which is no longer "supported" by Microsoft. The court plans to upgrade to a VISTA operating system, which will enhance security of the system and enable the court to obtain continued vendor "support" for the operating system.

A new LAN will also enable the court to move from single to dual processors, which will ensure the capability and usability of current and future software products and prepare the court for imaging and an electronic-filing environment. Storage capacity and speed of operation will be improved by moving from IDE to SATA hard drives on clients and SANs storage systems for file servers and imaging technology.

Switches/Routers

A new LAN will enhance network performance, increase LAN/WAN security, and provide for future growth by moving from 10 mbps hubs to 100/1000 mbps switches and routers. Increased bandwidth is needed for high speed imaging, real-time, internet audio streaming of oral arguments in the court to expand accessibility for the public, and to provide increased access for continuity of operations in case of a disaster. Moreover, upgrading from the current 10 mbps to 100/1000 mbps units would provide greater transmission speeds and improved Internet access for the judges and staff of the court, and for the public.

Back-up Storage Devices

A new LAN will enable the court to upgrade its data back-up capability by moving from an analog tape back-up to a digital or optical back-up system. Such an upgrade will provide increased data back-up storage capacity and faster restore speeds.

DISTRICT OF COLUMBIA COURTS

Question. Funding for the Old Courthouse restoration has been phased over the past three years. What is the current status of the project and what will be financed with the 2008 request?

Answer. We appreciate the Congress's strong support for this project and the President's support for our fiscal year 2008 request. The restoration of this historic landmark will return the building to its historic use as a courthouse for the people of the District of Columbia. Restoration is key to the Judiciary Square Master Plan, an urban renewal plan to revitalize Judiciary Square and return it to its historic green, park-like setting for public use.

Construction began in 2006 and is expected to be complete early in 2009. On May 25, the massive columns of the portico were raised less than an inch to permit excavation for the large courtroom that will be built underground below the portico.

The construction contract (\$99 million) was financed in fiscal year 2005–2007. The 2008 request will cover costs that are not part of the construction contract, such as removal of hazardous materials, built-in furnishings, security, and project reserves.

Question. What have the D.C. Courts done to address the personal services budget shortfall and what impact have these measures had on court operations?

Answer. The gap in the D.C. Courts' personal services budget formed by salary and benefit costs increasing faster than appropriations, as in all federal agencies. Because the D.C. Courts are a small agency and 75 percent of our budget is for personal services, these costs have risen beyond the Courts' capacity to absorb. Our request for fiscal 2008 will provide full funding for all authorized staff positions. We appreciate the President's support of this request.

To address this shortfall, the Courts have taken numerous steps to limit costs and increase efficiency including the following: severely limited hiring; reengineered business processes; given employees compensatory time instead of overtime pay; restricted travel and training; delayed the 2007 cost of living adjustment; restricted purchasing; and requested legislation authorizing the Courts to offer buyouts to give us a tool that is available to federal agencies to help manage our workforce. We thank Congresswoman Norton for introducing legislation last year and hope it will be enacted during the 110th Congress.

The Courts currently have a 14 percent non-judicial vacancy rate, which we cannot sustain without severe negative consequences on the administration of justice in the District. One example of impact on court operations is in our Civil Division, where, due to the staffing shortage, docketing has been delayed. This means that documents filed with the court are not recorded for several days. The Courts' staff is working very hard, in difficult circumstances to maintain the best possible service to the public, under the circumstances.

Question. Please discuss the D.C. Courts' capital budget and plans for facilities.

Answer. The D.C. Courts manage and maintain over one million gross square feet of space in five buildings in Judiciary Square. Our facilities plans focus on renovation of the Old Courthouse for the Court of Appeals to increase available space in the Moultrie Courthouse and consolidation of the Family Court in the Moultrie Courthouse, which necessitates moving support and operational functions out of Moultrie and reorganizing and relocating those operations that will remain.

Building C is the next building to be renovated. It will house the Information Technology Division, one of the divisions scheduled to move out of the Moultrie Courthouse. We must bring other court buildings up to meet current health and safety codes. Of particular concern is the electrical system in the Moultrie Courthouse, which poses serious safety risks to workers. The Moultrie cellblock, which holds hundreds of prisoners each day, also needs to be brought up to current standards. A study detailing the work that needs to be done in the cellblock has been conducted.

Question. What are the D.C. Courts doing to ensure that the public can easily access court services and to provide accountability to the community?

Answer. The Courts' Strategic Plan guides our efforts to enhance access and accountability to the public.

Access

The D.C. Courts have implemented several initiatives to enhance public access to the Courts, including the following:

- The Court of Appeals Education Outreach Initiative is bringing oral arguments to the community in D.C. law schools;
- The Court of Appeals provides on-line access to oral arguments in the courthouse;
- In cooperation with the D.C. Bar and community organizations, the Courts have several self-help centers to assist litigants who do not have attorneys. For example, we have centers in Family Court, Landlord Tenant, and Small Claims;
- The Superior Court has implemented e-filing in civil cases to make it easier to bring a case to court;
- The Courts recently opened a Drop-In Center in Southeast to provide community-based services to juveniles on probation and their families;
- Judicial officers in the Community Courts judges regularly meet in the community with groups such as Advisory Neighborhood Commissions; and
- The Courts' award-winning website provides extensive information on the courts, including contact information, filing procedures, forms, and legal service providers in the community.

Accountability

The Joint Committee has adopted 13 Courtwide Performance Measures to enhance accountability to the public. The measures cover access to court facilities and services, case processing time, treatment of litigants, jury management, fiscal accountability, and facilities management. We are currently gathering baseline data and establishing benchmarks for the measures and plan to issue routine performance reports to the public.

SUBCOMMITTEE RECESS

Senator DURBIN. So this meeting of the subcommittee will stand in recess.

[Whereupon, at 6 p.m., Wednesday, May 2, the subcommittee was recessed, to reconvene subject to the call of the Chair.]